

What to Do If Your Car Is Totaled

Don't agree that your car is a total loss? What about the payment your insurance company's offering you? Here's what to do to make sure you get a fair settlement.

What happens when a traffic accident destroys your car? It's not a scenario most drivers want to think about. Still, it's one you should consider before it happens, especially when you are shopping for an auto insurance company.

Most of us use the term "total" in casual conversation, as in, "Man, did you hear Smith totaled his car driving back from the party last Saturday?" When you total something, you wreck it completely. That's not too far from the insurance industry's definition of a totaled car:

When your car is totaled there is so much damage to the car that it would cost more to fix it than what it's actually worth.

It sounds as though your car would have to suffer some major damage in order for an insurance company to total it, but it's actually a function of the car's value. Minor damage to a 15-year-old Buick might result in totaling the car, while major damage to a brand-new Saab might not. Auto insurance claims adjusters usually determine a car's actual cash value by using their company's proprietary database of prices. Insurers generally use the National Auto Dealers Association (NADA) Official Used Car Guide or the Kelley Blue Book only as secondary sources.

What if you don't agree with the insurance company's assessment of the damages? What if you really love your car and you don't want them to take it away? Do you have any recourse?

Yes and no. When you buy an auto policy, you sign a contract with your insurance company. You can't force your insurer to pay out more than your car is worth: That's part of the contract. But, as Bob Hunter of the Consumer Federation of America says, you're supposed to be "made whole" by your insurer. "You should be put back into relatively the same spot that you were before the accident," Hunter says. This is true even when another driver caused the collision. Remember the claims adjuster works for the insurance company and their goal is to save the company money.

Where are they taking my baby?

If the cost of repairing your car exceeds a percentage of the insurance company's estimate of its worth, your car is a total loss. Some companies total vehicles at 51% of its actual worth, some total at 80%. The insurance company will pay you the car's actual cash value, minus any deductible on your coverage. Then the car goes to a salvage yard, where it's auctioned off to the highest bidder and usually chopped up for parts. The insurance company keeps whatever money it got for the car in salvage.

If your car is a total loss but you want to have it repaired anyway, you should be able to retain it. Your insurer still has to pay you the car's actual cash value, minus the deductible and minus what the company would have gotten for it at the salvage yard. You should let your claims adjuster know up front that you want to keep the car. Of course, you are going to have to pay for the repairs yourself. Make sure you consider this option early in the claims process. If you decide to give up your car but then change your mind, you are going to have a hard time buying it back at auction.

"There's really no need to give the car to the salvage yard and have the insured go through [the auction] process when we can just turn it over to the insured directly," says Mike Treviño, a spokesperson for USAA. However, you may not be so lucky with your company. Sharon Frazier, a spokesperson for State Farm, the nation's largest automobile insurer, says that the company looks at each situation on a case-by-case basis. If your car is a newer model and its parts would fetch a lot on the auction block, your auto insurance company may decide to send it to salvage despite your protests.

License to buy

In most states, your car is gone for good once it goes to auction. Regulations vary, but in many places you won't even be able to attend the auction without a special license for auto salvagers or auto dealers. It's good to call the auction house beforehand to see if you will need a license in order to bid on your car.

If you do get your car back from your insurer, you'll be left with a badly damaged car and only a fraction of the money needed to repair it. "You could do it that way but you've got to be realistic," says Hunter. If the car is really beyond repair, you'll be left with a carcass of a car and a check that's not quite enough to buy you a new one.

If the car is repairable, make sure you have all the necessary work done. Insurers can refuse to completely cover a car that's been totaled if it hasn't passed a department of motor vehicle inspection - often a necessary step in getting your car back on the road. As long as it passes inspection at the Arizona Department of Motor Vehicles you should have no problem buying liability insurance. Physical damage coverage - comprehensive and collision insurance - is a different story. Some insurers won't sell you physical damage coverage if you're driving a previously totaled car.

David Smolensky of the National Association of Independent Insurers offers this sage advice: "Move on. The car's been totaled."

The price is wrong

Hunter says the majority of the complaints he hears are not from people who want their old, crashed cars back, but from people whose insurance companies didn't give them enough money to buy a similar car. "If I had a five-year-old Honda Civic, I have a right to get a five-year-old Honda Civic with comparable miles and comparable options," Hunter explains. However, your insurance company's estimate of what that comparable car will cost may differ from the realities of the marketplace.

If you don't agree with your insurer's estimate of your car's actual cash value, you can choose to bring in an independent appraiser, probably at your own expense. "It could be that two or three appraisers are brought in," says Frazier of State Farm. "If one appraiser is \$2,000 apart from the other, you'll need another one to come in to settle the matter."

Bring in the lawyers

If negotiating with the insurance company brings no results, you do have two more options: arbitration and litigation. Arbitration is a process for settling complaints that is usually faster and cheaper than a trial. It can be binding or nonbinding; with nonbinding arbitration, you can still take the matter to court if you're not satisfied.

Hunter cautions that arbitration, while less costly and time-consuming than a lawsuit, is more likely to go in favor of the insurance company. "You're always at a disadvantage when you take it to arbitration because [the insurance companies] have more practice with it," he says. Arbiters have to deal with these insurance companies all the time, so they're not likely to want to get the companies steamed, he adds. You can bring an attorney with you to arbitration, which may increase the odds of a satisfactory outcome for you.

While landing in a courtroom over a totaled-vehicle settlement isn't very likely, knowing your options is an advantage that consumer advocates continually stress: "An informed consumer is the best defense against unfair settlement practices."