

Load shedding and liability: Are you at fault for accidents at traffic lights?

If you get into a car accident at an intersection where the traffic lights aren't working due to load shedding, you might be held responsible even if it was your turn to go. This might impact the amount of money you can receive if you file a claim for personal injury with the Road Accident Fund (RAF).



Source: [Unsplash](#)

This is according to Kirstie Haslam, partner at DSC Attorneys, who says that motorists have certain responsibilities when traffic lights aren't working.

"Motorists must proceed as if they're at a three or four-way stop and the first car to arrive at the stop sign gets the right of way," she explains.

She continues: "All motorists should move forward in the order they arrive. If you approach a four-way stop and there's one car at each stop street, you must wait for every car to go before you do. If there are queues at the stop, vehicles still move by the rule – first come, first proceed."

It may not seem fair, but Haslam says that even if there's an accident when it was your right of way, you may not be absolved from all liability.

"South African courts have established the fact that drivers have a duty to be aware of their immediate vicinity when entering an intersection, whether it has robots or not, and even when they're not working," she says. "If another motorist, whose turn it isn't, shunts you from the side, you're not automatically entitled to 100% damages."



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Bertus Visser 3 Mar 2020



If you'd kept a proper lookout and driven at the appropriate speed, and it is deemed that the incident may have been avoided damages would be apportioned between both parties. "For example, the other driver, who didn't wait his turn, might be held 60% liable for your damages, but you could be on the line for 40% of that driver's liability," says Haslam.

She explains that according to courts, keeping a proper lookout means more than looking straight ahead. "It also includes an awareness of what is happening in one's immediate vicinity. A motorist should have a view of the whole road from side to side and of any pavements."

Haslam says that it is increasingly common in South Africa to see well-meaning civilians directing traffic at robots that are out during load shedding.

She stresses that motorists must be aware that it is against the law for any unauthorised person to direct traffic and no person, other than authorised officers, can direct traffic. "If you're in an accident because you followed the directions of an unauthorised person, you may be in the wrong and your insurer might not pay out depending on the circumstances."

Compensation for injuries in road accidents

If you're injured in a road accident in South Africa that was not your fault or only partially your fault, you can claim compensation for those injuries from the (RAF), a state-funded insurance fund.

"Compensation can cover medical expenses, loss of earnings and, in specific circumstances, general damages resulting from the accident," says Haslam. "Dependents of people injured or killed in road accidents can also claim loss of support and, in the event of a fatality, funeral costs."

"The RAF provides personal injury compensation to people injured in motor vehicle accidents providing the claimant wasn't entirely responsible for the accident," she adds. "Drivers, passengers, pedestrians, cyclists and motorcyclists can all claim from the RAF."



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However, Haslam says that if a person was partially responsible for the accident, the amount of damages recoverable is

reduced by the extent to which the claimant's fault contributed to his or her damages. This is called apportionment of damages.

She says that the RAF will not be liable for the percentage of damage representing the claimant's own negligence. "So, if you are 60% responsible for an accident, the RAF will only be responsible for 40% of your damages."

During load shedding, Haslam says that it's even more necessary than ever to be vigilant on SA's roads and that traffic flows worsen without traffic lights.

If you're injured in an accident and you want to know who's liable for road accidents due to traffic lights being out during load shedding, Haslam says you will need to seek professional legal advice from an attorney that specialises in road accident claims against the RAF.

"They will ensure that you get the compensation you deserve in as short a time as possible," she concludes.

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