



*For a Better Result.....*

## What if it's not black or white?

And we don't mean a certain shade of Yellow either!

Often times there will be cases where the circumstances of a collision indicate that both parties involved will to an extent be at fault.

The parties may be liable to any extent jointly adding up to 100%. For example, one party may be turning across the path of another at an intersection, but because the other party was travelling too fast, and not paying attention, they contributed to there being a crash. Here, a Court may apportion blame 80/20.

In such cases, this means that one party will recover 80% of his loss, but from that needs to be deducted 20% of the other party's claim. So in theory, it may be possible to make a recovery in a case where you are mostly at fault, because the amount you are claiming is far greater than the other's.

The difficulty lies in determining who is at fault.

As our Magistrates Court now has jurisdiction up to \$150,000 most property damage claims that occur every day will be determined here.

This potentially has problems. We have found that what it takes to convince a Magistrate will vary depending on before whom your case is being determined. We have also found that the best answer is the KISS principal – "Keep It Simple Sweetheart."

This also means that although the Road Rules are helpful, they are not the be all and end all of determining the relevant faults of the litigants.

The ultimate question therefore to determine is when blame is uncertain, when is it best to settle? These are matters where you should seek the advice of your expert recoveries solicitor.

For more information please contact *Robert Bakker*.

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