



Peace of mind

Stuart Kightley from Osbornes Law explains why liability insurance can provide peace of mind for every cyclist

WE TAKE out insurance for different reasons: sometimes because we have to by law (in the case of motor vehicles), but also because we want to. The latter applies to our lives, health, pets, bikes, and almost anything else where we value the peace of mind of small regular premiums over the risk of financial ruin. And Britain writes more insurance than any other European country by some distance, so we may be thought to be comfortable with more insurance.

In this context, an otherwise unremarkable county court civil case caused quite a stir in the national media when it was reported that an uninsured cyclist was facing a personal liability of £100,000, for colliding with a pedestrian who walked out in front of him while looking at her mobile phone. The cyclist, a Mr Hazeldean, was said to have made a plea to

fellow cyclists to be sure to take out insurance so as to avoid a similar plight.

On closer inspection the case was indeed unremarkable: according to the claimant's lawyer the evidence was that Mr Hazeldean accelerated towards a number of pedestrians on a crossing, so even though he had right of way and sounded his horn just before the collision he was partly at fault and the judge was right to apportion liability between the parties. He was ordered to pay £4,000 in damages, being 50% of the claim, plus costs. He had failed to make a counterclaim in the proceedings for his own injuries and losses and therefore had no damages claim to offset against this judgment.

In the event the costs order against him reportedly came out at £30,000 and, in a happy ending, a sum in excess of the claim and costs was crowdfunded and paid by well-wishers.

Expect the unexpected: even on the safest streets and crossings

But what this case highlights for cyclists is the financial jeopardy, for potentially large sums of money, if they cycle negligently and cause loss or damage to others on the roads.

Why we need liability insurance?

So do cyclists need to worry about insurance? First, the issue needs a bit of context.

Liability insurance is not compulsory for cyclists (or e-cyclists) – it is only required for motorised vehicles (including e-scooters and other powered transporters).

Second, the risks are relatively low. In the UK we operate a fault-based system for civil liability, which is less than ideal – in many countries there is a legal presumption that in an accident with a cyclist (or pedestrian) the motor vehicle driver is at fault. But it means that a party is only liable to compensate another after an accident if they were at fault, and the overwhelming majority of accidents are caused by the driver, not the rider.

Where a cyclist is at fault in a collision with a motor vehicle the damage caused will usually be modest. And where the accident involves a pedestrian there may be a high value claim for injury or even death, but the risks are very small. For example, only 0.7% of the 448 pedestrian fatalities in 2016 were caused by cyclists. That's why calls some politicians and pundits make periodically that cyclists should have mandatory insurance are as misplaced as calls for mandatory helmets, number plates or to pay 'road tax'. Cyclists are such a low risk to others that the costs to administer any mandatory scheme would be far bigger than any benefits.

Third, a cyclist may already have insurance that covers their potential liability following an accident. Many policies, particularly household insurance, will cover the policy holder or a family member in this situation. As ever, the small print should be checked.

What does it cover?

It covers third party losses arising from a cyclist's own negligence. So if a cyclist rides into the back of a car causing damage to the vehicle, the

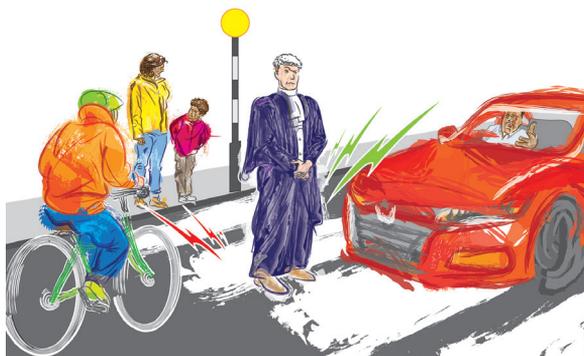
insurance will pick up the repair bill and any associated legal costs. If a cyclist runs a red light and knocks down a pedestrian causing injury, then the insurance will meet the damages claim.

The amount of such a claim can vary considerably from case to case because each person and each injury is different, and the law of damages is that the at-fault party has to compensate the injured party for the full extent of their losses. If a cyclist runs a red light and causes cuts and bruises to one pedestrian and a spinal cord injury to a second pedestrian, they will be liable for damages of perhaps £500 in one case and £5 million in the other. The legal costs associated with these claims will also be covered under the policy.

But we are looking through the wrong end of the telescope here. The fact is that cyclists very rarely cause accidents: they are invariably the victims of accidents caused by the negligence of motorised vehicle drivers, and sadly their injuries and losses can be severe and substantial. In these cases the cyclist does not need insurance – they just need a good lawyer, who will bring their case under a 'No Win No Fee' agreement that gives them access to justice and means they are not left out of pocket.

Ultimately the question of insurance for cycling is a personal risk-benefit decision. For the more risk averse (or accident prone) cyclist there are stand-alone policies on the market for less than £20 a year. Or with standard annual LCC membership only costing £49 (£25 for concessions), peace of mind can come quite cheap.

Civil liability: is a fault-based system in the UK



Illustrations: Boing Graphics