

Motorcycle Justice

Q: LAST OCTOBER, I was riding my Road King on a two-lane road, leaning into a long sweeping right turn, when I noticed a large coal truck stopped at an almost invisible side-road to my right. Instinctively, I covered my brake, but I was nearly upon the truck when it suddenly pulled out to turn left across my lane of travel.

Swerving to avoid a collision was out of the question. I was already at a solid lean angle going right, and it did not appear that going farther to the right would get me past the rear of the truck. When it began pulling out, the truck covered both lanes of the highway. Swerving left was also very dangerous; in the unlikely event that I miraculously missed the front of the truck, I would then be flying over an embankment into the treetops.

I locked up the brakes and tried to minimize my impact. The bike skidded in a straight line across the center line before colliding with the rear of the coal truck. I was fortunate to survive, but the bad news was not over. Before I was released from the hospital, I was contacted by an insurance adjuster who denied my claim because the collision occurred on the truck

driver's side of the road. Can they do that?
Injured and screwed

Dear Injured, do not give up hope. Adjusters are paid to convince injured people that they have no right to recover fair compensation.

In your case, the evidence at the scene should show a skid mark (or at least some definitive shading) in a straight line beginning on your side of the road before you crossed the center to strike the truck. Also, the fact that you hit the back portion of the truck confirms that, had you not braked, the collision would have been more severe and on your side of the road.

As long as you were not travelling at an excessive speed, you had the right-of-way. Absent any traffic control device, in almost every state a driver entering the highway from a side street or driveway has a duty to stop (and yield) before entering the highway.

The insurance company will still fight your claim and possibly take it to trial when you pursue it. In addition to blaming you for crossing the center line, they will likely contend that their insured driver allowed sufficient time before entering the

highway and that the collision occurred only because you were riding too fast; that your speed was the reason why their driver did not have time to cross the road.

Most likely you will need the assistance of an attorney, investigator, and crash reconstructionist. The attorney should advance the costs of hiring the necessary experts. If your claim succeeds, those costs and the attorney's fees will be paid from the claim proceeds. Alternatively, if the truck driver and his insurance company prevail, no reputable injury attorney will charge you a fee or require repayment of the advanced expenses.

—Harry Deitzler

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