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## Heavy Vehicle insurance considerations

Your truck insurance policy probably will not cover damage due to war or electromagnetic pulses (EMP), but that probably is the least of your concerns. What else is not covered by insurance? This article provides my understandings.

### Insurance Policy Coverage

A wide range of policy offerings exist such as: third party only insurance, commercial vehicle insurance, public liability insurance, goods in transit insurance, downtime insurance, business interruption insurance. Whatever policy is chosen, the insurance Company (*the insurer*) will want to know

exactly what the vehicle is used for and what cargo is carried. Exceptional conditions should be declared. The vehicle owner (*the insured*) should report the incident to police and to *the insurer* as soon as possible. The report must be honest and complete. The *insured* must give the *insurer* full discretion and assistance in investigating and defending the claim.

Articulated vehicles will often include a trailer that is not owned by the *insured*. This trailer and its load can optionally be covered. Usually, the trailer will be covered under a separate policy. The policy may or may not cover the value of the goods being carried.

### Exclusions

The policy may not cover overload and over-dimension. The *insured* should know the legal limits of the vehicle and obey them. These limits include the capacity limits of the equipment. If the limits are exceeded accidentally or if the overload is irrelevant, cover may still be provided.

A claim may be refused if the *insured* or its agent (e.g. the driver) admits liability without the *insurer's* approval.

Theft of the equipment or its load is covered unless the thief has a claim over the equipment or load. Modifying the fuel system or not informing the company about substantial modifications may also invalidate a claim.

### Players in the Insurance Industry

A loss adjuster is a claims specialist who is appointed by the insurance company to investigate a contentious or complex claim. A claim assessor will inspect the equipment for the *insurer*. This person will review the claim from the insurance company's perspective. A loss assessor represents the insurance policy holder (*'the claimant'*) and will negotiate with the insurance company about the claim.

### Response Times

The *insurer* must acknowledge a claim within ten business days. In the first step a

Figure 2 - Causes of Large Losses in NTI Portfolio

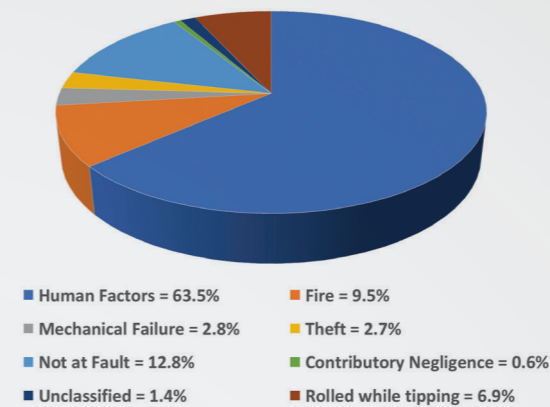
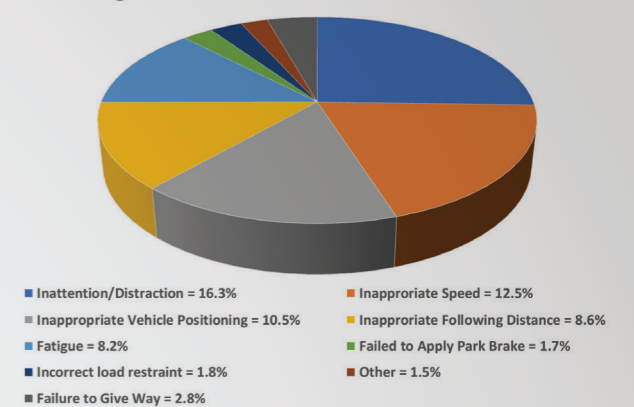


Figure 3 - Breakdown of Human Factors Losses



claim assessor will inspect the damaged truck or trailer and make a first assessment of the validity of the claim and the replacement or repair value. The *insurer* may require more information about the claim. It may appoint a loss adjuster or appoint a forensic investigator or a factual investigator. If it does this, the insurance company must advise the *claimant* within five days of the appointment. More generally, the company should keep the *claimant* informed about the status of the claim every 20 business days or less. The process is illustrated in Figure 1.

### Disputes

If a dispute arises about the insurance claim, or if the claim is taking an excessive time, the *claimant* can lodge a complaint with the *insurer*. The company should have an internal dispute resolution process involving review by a manager who has not previously considered the claim. If the *claimant* is not satisfied, a complaint can be made to the Australian Financial Complaints Authority (AFCA). The *insurer* will have to justify the decision to refuse or limit the claim.

### Forensic Investigation

The *insurer* must be able to justify its assessment process because it is answerable to the AFCA. For some claims the *insurer* will appoint an independent forensic investigator to report on the condition of the equipment. It must do so within 12 weeks. The *insurer* will usually want to understand the reasons for the failure irrespective of whether it pays the claim or not. I often get instructions to conduct forensic examination of failed, burnt or crashed trucks and trailers.

If the insurance claim is rejected the *claimant* can request a copy of the external forensic reports that were relied upon to assess the claim. The reports must be supplied by the insurer within ten business days.

The insurance company will want to answer the following questions:

- Did mechanical wear and tear cause the failure?
- Was the vehicle roadworthy?
- What condition was the equipment in?
- Was the vehicle overloaded or over-dimensional?
- Was the use of the vehicle reckless in the circumstances?
- Was the failure reasonably foreseeable?
- Had the equipment been modified and if so, was it approved and safe?
- Had the equipment been serviced adequately?

Insurance does not cover events that are expected to occur. Insurance is for reasonably unforeseeable events. The *insurer* may make the *claimant* an offer to settle the claim after considering the answers to these questions. A partial settlement offer may arise if the *insurer* assesses that the actions by the *claimant* were partially responsible for the loss. A very important consideration is that once an insurance claim is made, the *insurer* has an interest in the claim. It may spend money moving the vehicle or assessing its condition. If the *claimant* decides to withdraw the claim, the *claimant* may have to wait until the *insurer* is finished with it. I recall investigating an engine problem on an agricultural machine. The *claimant* thought that the fuel was contaminated. The

machine was moved to a workshop nominated by the *insurer*. It was discovered that the fuel system had been incorrectly bled by a mobile mechanic. This episode took three months to sort out, during which time the machine was unavailable to the owner.

### Causes of Truck and Trailer Risks

So, what is the risk that your truck or trailer will be involved in a serious incident? The best information available about the causes of truck and trailer insurance claim is in the 2022 National Transport Insurance (NTI) Safety Report. This report presents a detailed assessment of the causes of all the 'large loss' insurance claims (which have a value of \$50,000 or more) that NTI received in 2021. There are 1001 such large loss claims. This represents five major claims per 1000 insured vehicles.

Figure 2 shows that nearly two in three of NTI's large-loss claims are primarily caused by 'human factors'. That is, poor decisions made by the driver of the insured vehicle. Figure 3 shows the breakdown of the human factors category. The top four categories are due to poor driving. To reduce risk the owner of the truck should focus on ensuring that the driver is adequately trained and experienced.

The lessons seem clear. The driver's training and professionalism are paramount. Providing equipment in good condition with safety systems that can intervene to protect against developing danger will reduce the risk of having to make the insurance claim.

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Figure 1: Insurance claim timetables  
(Courtesy: Financial Rights Legal Centre)

