

Cycling Helmets: To wear or not to wear?

A recent court decision highlights that a failure by a cyclist to wear a safety helmet can have the effect of reducing their compensation should an accident occur.

A collision took place on a village road when a man (C) was riding his bicycle and was about to turn into a driveway, when he was hit by a motorcyclist (D) who was trying to overtake him. C was not wearing a cycle helmet on this occasion and sustained serious head injuries, with no recollection of the events. D suffered a fractured forearm. Ironically, each party made a claim for compensation alleging that the other was at fault.

D alleged that even if he had been at fault by riding too fast, that C had contributed to his own injuries by failing to wear a cycle helmet. Had the judge agreed with him, then potentially C's compensation could have been reduced by up to 100%. Although, it is highly unlikely that a person would be found to be 100% responsible for causing their own injuries simply by not wearing a cycle helmet. The most likely reduction in compensation in these cases is up to 25%.

The court held in this case that D was entirely responsible for the accident. They also held that C's failure to wear a cycle helmet had not contributed to his injuries and so they did not reduce C's compensation.

This case is a stark reminder that the failure to wear a helmet can result in a cyclist sustaining horrendous head injuries. This is because a cycle helmet can 'brake the fall' or at least make a cyclist more visible on the road. The other school of thought however, is that wearing a helmet can increase the risk of head injuries because they increase the surface area and that in any case the average helmet is only designed to withstand falls from a bike at no more than 12mph. You must of course decide upon which side of the fence you would prefer to fall.

The wearing of cycle helmets is not compulsory in English Law, unlike Australia, Canada and America. However, the Highway Code does state that a cyclist "should wear a cycling helmet which conforms to current Regulations". It is for this reason that the civil courts will have to contend with whether cycle helmets should be worn by "reasonably prudent cyclists".

D was unsuccessful because he had not discharged his burden of proving that C's failure to wear his helmet had made his injuries more severe. This is a hurdle that all defendants in such cases will need to cross and in some cases they will. Cyclists must therefore count the cost of not only the damage that they may sustain but also the consequences this may have on any potential claim.

If you have been injured in a cycling accident it is important that you obtain expert impartial advice as soon as possible.

If you think you may have a claim and would like to speak to someone contact our specialist qualified personal injury claim lawyers now for immediate advice and to start your claim. Call Actons Solicitors free on **08081 355 355**.

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