What to do if you or a loved one is the victim of a Pedestrian Strike

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Struck by a Smooth Criminal:

What to do if you or a loved one is the victim of a Pedestrian Strike

According to a 2018 study by the National Transportation Safety Board (NTSB), 5,987 pedestrians were killed on roads in 2016—amounting to approximately 16 deaths per day. Further, 16% of the total traffic deaths in the United States are pedestrian deaths.

When a pedestrian is injured as a result of a motor vehicle strike, the pedestrian, or in cases of a fatality, the family of the pedestrian, may pursue a personal injury claim against the individual, or individuals, responsible for the motor vehicle accident. Many states have adopted new laws regulating and defining fault in the event of a pedestrian strike to address this growing public safety concern.

Massachusetts Law on Pedestrian Strikes

The Massachusetts law regarding pedestrian strikes, M.G.L. c. 89 § 11 states that "Vehicles must yield to pedestrians in crosswalk when the pedestrian is in or close to vehicle's half of roadway." What this means is that a motorist must stop and yield if someone is on the same half of the roadway or within ten (10) feet of the motorist. The Massachusetts Code of Regulations further clarifies this stating that pedestrians must cross a roadway within a marked crosswalk when: (1) an officer is directing traffic; (2) there is a traffic control signal; or (3) there is a marked crosswalk within 300 feet of the pedestrian. Pedestrians who violate these jaywalking rules can be fined. 720 C.M.R. 9.09.

Massachusetts has created additional law that requires pedestrians to exercise reasonable care for their own safety. Notably, pedestrians crossing at a location other than a crosswalk is not itself negligent and does not relieve a motorist of the duty to exercise reasonable care to avoid the pedestrian.

In Massachusetts, one of the biggest obstacles to overcome in a pedestrian strike case is the comparative fault of the pedestrian. As a general rule, motorists will likely be primarily at fault when a pedestrian is struck. However, a motorist may argue that the pedestrian's comparative negligence should reduce the total recovery amount. If a pedestrian is found to be at least 51% at fault, they will generally be unable to recover for their injuries.

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You or a Loved One Have Been Struck by a Vehicle—What should you do?

As with any type of collision and/or injuries, we strongly recommend that immediate medical treatment is sought. The longer one postpones seeking medical treatment for injuries resulting from a collision, including a pedestrian strike, the higher the chances are of having a serious injury go untreated and potentially worsen. If seeking legal recourse for injuries sustained in the collision, the more challenges will arise in your case if it shows you failed to seek immediate medical treatment.

Pedestrian strikes can often involve very serious injuries as motorists may sometimes strike a pedestrian at a high rate of speed. Nevertheless, even a motorist not traveling at a high rate of spade may inflict serious injuries on a pedestrian that it strikes, including, but not limited to, serious head injuries that may result from a head strike. Even if you or a loved one does not experience immediate injuries or symptoms following a pedestrian strike, we strongly urge you to seek medical treatment as some injuries, including back pain, neck and shoulder pain, abdominal pain, numbness and bruising, emotional distress, and head injuries, including traumatic brain injury and headaches, may have delayed symptoms.

Our Expertise in Pedestrian Strike Liability and Personal Injury Cases

Our expertise in pedestrian strike liability and personal injury cases allows us to carefully review each client's circumstances, to identify all possible legal claims and defenses against all possible parties, and to pursue the maximum amount of compensation that is available or defend against a possible claim that is being brought against you in relation to a pedestrian strike. This is one of the many reasons why it is important to have a personal injury attorney to assist you in protecting your rights and fighting for the compensation and justice you deserve.

If you have been injured by a motor vehicle or someone has brought a claim against you in relation to a pedestrian strike, please call our office today at 508-880-6677 and speak with one of our personal injury attorneys for you free and confidential personal injury case consultation.

By: Attorney Kevin C. Costa

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