



CATASTROPHIC EVENTS & ARTIFICIAL LIMITS

By **Scott A. O'Mara**

In certain catastrophic accidents, artificial compensation limits have been placed on the driver, family members and/or passengers in the vehicle which has been struck. These artificial limits are \$15,000.00 per driver or passenger for injury or death to one or more persons, with a total limit of \$30,000.00 for all individuals in the vehicle. While these limits provide some compensation, they do not protect injured drivers, their family members, and/or their passengers from uninsured or underinsured motorists to the fullest extent necessary.

Currently, based on a recent study, California drivers are 16.6% uninsured. However, this figure does not account for all the drivers who are *underinsured*. As stated above, the mandate for \$15,000.00/\$30,000.00 coverage per California Insurance Code 11580.16 does *not* provide the full protection which drivers and passengers need in the event of a serious accident. Nonetheless, there are several steps which drivers can take to protect themselves, their family members and their passengers beyond the aforementioned artificial limits which have been imposed.

One major step is to go beyond the coverage mandated for protection against uninsured motorists pursuant to Insurance Code 11580.2, which requires every vehicle liability insurance policy issued in the state of California to include uninsured/underinsured motorist coverage. While this mandate was created to provide protection, it unfortunately is at the same level as the \$15,000.00/\$30,000.00 required on your policy.

The mandate of the Uninsured Motorist Act is to have you insured against uninsured or underinsured drivers, and the coverage you carry pursuant to this act is designed to provide protection. However, the minimum requirements are not sufficient.

The next step to which you should give serious consideration is to extend your purchased coverage beyond the \$15,000.00/\$30,000.00 limit. By doing so, you provide an umbrella of protection against the uninsured or underinsured motorist who is negligent in the operation of their motor vehicle and causes bodily injury to one or more persons in your vehicle. If you caused or partially caused the accident, the recovery you receive could be reduced consistent with your percentage of fault.

Another very significant consideration is that for job-related injuries, the Workers' Compensation system allows the employer an offset for any compensation you receive relative to that job-related injury, with the exception that if the payment to you stems from your own uninsured/underinsured policy, that would not allow the employer or carrier to reduce their obligation. However, the uninsured/underinsured coverage you purchase is lowered by the current compensation you derive from Workers' Compensation.

Uninsured and underinsured coverage is designed to ensure that the driver, family members and passengers who are harmed by a financially-limited driver are protected against the harm which has been done and have a proper level of coverage. The expense to include this coverage in your insurance policy is small in comparison with the increased protection it provides for you, your family members and other passengers in your vehicle

Dealing with this situation involves a complex formula, but in many situations where you are injured by an uninsured or underinsured motorist, the level of damage or death goes well beyond the protection provided by Workers' Compensation. Therefore, by following the advice provided herein, you have a better opportunity to obtain a full cup of justice for a catastrophic event beyond the artificial limits which have been set, and achieve a higher level of protection for you and your family.

I suggest that you be proactive and seek quotes from various insurance providers, and find out the breadth and scope of the coverage they provide, with a minimum limit of \$1,5 million for protection against uninsured and underinsured motorists. Again, this protection is a necessity relative to the number of drivers who are uninsured or underinsured.



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NOTICE: Making a false or fraudulent Workers' Compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.

