

We often explain to our clients that the more severe an incident that leads to serious injury or fatality, the more complexity victims face regarding insurance. One of the most important types of insurance that you can carry in your household is called “[underinsured motorist coverage](#).” This is the type of insurance that protects you in the event another motorist on the roadway causes serious harm to you or your family and has an inadequate amount of liability insurance to cover your losses. With underinsured motorist coverage, you protect yourself up to your policy limits regardless of what the other person may carry.

However, underinsured motorist coverage can be very complex in the event of a catastrophic situation where multiple injuries and/or fatalities occur from the same incident. Consider an incident where multiple victims, all seriously injured, are forced to make claims against a single at fault wrongdoer in a serious wreck on the highway. That individual almost never has enough insurance to cover the loss caused to all the victims. In these instances, there are special rules protecting victims from pursuing benefits through their own insurance policies, and this month the North Carolina Court of Appeals affirmed that right.

This particular rule is known as the “per-incident” liability tender. Liability insurance policies are written in North Carolina with limits. The limits in a liability insurance policy apply to two separate things. The first limit is how much that insurance policy would pay to one individual claimant. For example, a \$100,000 liability policy would not pay more than \$100,000 to any individual victim making a claim. However, insurance policies also have what are called “per-incident” limits. On a \$100,000 insurance policy, the per incident limit is \$300,000. That means regardless of how serious or catastrophic the incident is, the insurance policy at issue will not pay more than \$300,000 combined as a result of that incident.

When a victim has to use their own underinsured motorist protection, the amount under their own policy can depend on whether the at fault driver’s insurance offered the per-person limit (i.e. \$100,000) or the per-incident limit (\$300,000).

In a complex multi-victim scenario, it is critical for a victim when using their own underinsured motorist coverage to know whether the at fault driver has made a per-person or per-incident tender of its coverage. As you can see, this may dramatically increase the amount of benefits available to victims through their own policy. A victim of an incident

like this cannot trust an insurance company to apply this rule for them. In fact, as we saw this month, the North Carolina Court of Appeals had to recently remind an insurance company that they were not fairly applying the per-incident coverage amounts to the victims of a serious tragedy.

Even in serious cases, this demonstrates that insurance companies are not going to fairly apply protections for victims without being forced to do so, either by a court or a victim's attorney. The attorney that a victim hires for a serious injury or death claim must know how to navigate multiple insurance scenarios, but also must know the rules in North Carolina that are put in place to help victims recover compensation when there is simply not enough liability coverage to go around.