Who Is Liable in a Truck Accident?

A tractor-trailer crash often involves more than one responsible party. The driver, the trucking company, the trailer owner, the shipper that loaded the freight and the maker of a failed part may all play a role. Identifying every responsible party is an early job for a truck accident lawyer, because each responsible party may have separate insurance.

The driver's conduct

Most claims start with the driver's conduct, such as speeding, following too closely, unsafe lane changes, distraction, impairment or fatigue. Commercial drivers must hold a commercial driver's license (CDL) under 49 CFR Part 383 and follow the driving rules in 49 CFR Part 392, which include limits on texting and hand-held phone use. A safety violation does not prove fault by itself, but in many states it can be evidence of negligence, and some states apply negligence per se. A truck wreck lawyer compares the driver's conduct against these rules.

The trucking company

When the driver is an employee acting within the scope of employment, the trucking company is usually responsible for the driver's negligence under vicarious liability, also known as respondeat superior. The company may also face direct claims based on its own conduct, such as negligent hiring, negligent retention, negligent supervision and negligent entrustment. Under the Federal Motor Carrier Safety Regulations, a trucking company must keep a driver qualification file under 49 CFR Part 391, run drug and alcohol testing under 49 CFR Part 382, and inspect, repair and maintain its trucks under 49 CFR Part 396. Gaps in those records can support a direct claim against the company, and the driver qualification file is often among the first documents a tractor-trailer accident lawyer requests.

Owner-operators and leased trucks

Some drivers are owner-operators who lease their trucks to a trucking company. The leasing rules in 49 CFR Part 376 require the lease to give the trucking company exclusive possession, control and use of the equipment during the lease, which can matter when the company argues the driver was an independent contractor. The USDOT number and company name on the cab, along with the bill of lading and the lease itself, help identify which company was operating the truck. An 18-wheeler accident attorney will usually request these documents early.

Other companies in the shipment

Cargo that shifts or falls can contribute to rollovers and jackknife crashes. The cargo securement rules in 49 CFR Part 393 set requirements for tiedowns and securing loads, and in some cases a shipper or loading company that controlled the loading may share responsibility. Claims against a freight broker that arranged the shipment raise separate questions, including federal preemption, and the answer depends on the claim and the facts.

Defective parts and repair work

If brakes, tires, steering parts or an underride guard fail because of a defect, the manufacturer may face a product liability claim. An outside repair shop that did faulty work may also be named. Telling a defect apart from poor maintenance usually requires inspecting the parts before they are repaired or scrapped.

Insurance and shared fault

Under 49 CFR Part 387, for-hire interstate trucks with a gross vehicle weight rating of 10,001 pounds or more that haul nonhazardous property must carry at least $750,000 in public liability coverage, and certain hazardous materials require higher minimums. Most states use comparative negligence, which may reduce damages by the injured person's percentage of fault, while a few still apply contributory negligence. A commercial truck accident attorney looks *18-wheeler crash lawyer Atlanta* at all of the parties, since a single policy may not cover the full loss. This is general information rather than legal advice, and no result can be predicted from it.