When people think about the law, they often think about the police and about criminal law. Most law, however, is not criminal law but civil law. Tort law—the largest area of civil law—deals with some of society’s most controversial issues. For example, should cigarette manufacturers who place a warning on cigarette packages be required to pay damages to a smoker who develops lung cancer as a result of smoking? Tort law encourages people to act responsibly by awarding money or damages to victims who are harmed by wrongdoers. While tort law cases can be resolved by lawsuits, far more are settled without going to court. Mediation, negotiation, and arbitration are frequently used to settle tort cases.

**Chapters in Brief**

**Chapter 18** defines *tort law* and identifies parties in a lawsuit. It also helps you apply basic concepts such as liability, settlement, and damages.
Chapter 19 defines the two general types of intentional torts: actions taken to deliberately harm another person and actions taken to harm property. The chapter also discusses how the judicial system treats intentional torts. Finally, defenses to intentional torts are described.

Chapter 20 explains the concept of negligence. The chapter then explores the legal elements of negligence: duty, breach of duty, causation, and damages. The defenses a person charged with negligence might use are also outlined.

Chapter 21 describes torts in which defendants are held to strict liability standards because they engaged in extremely hazardous activities. The chapter explains how this area of law may serve as an incentive for careful and safe practices at work and at home.

Chapter 22 reviews the function of the tort law system as it relates to public policy. Then the chapter challenges you to evaluate the importance and fairness of the tort system as you assess current tort reform efforts.

The primary goal of civil law is to protect people by helping them avoid problems and resolve disputes.
In criminal law, when someone commits a wrong, we call it a crime. In civil law, when a person commits a wrong, it is called a **tort**.

A crime is considered a wrong against all of society, even though there is usually a specific victim. The criminal is prosecuted and punished by the state. By contrast, civil law deals with wrongs against individuals. A harmed individual becomes the **plaintiff** in a civil lawsuit. The plaintiff seeks to win a **judgment** against the **defendant**, or accused wrongdoer. A defendant who loses the judgment in a civil case will not be punished with jail or other penalties associated with criminal law. Instead he or she will be ordered to compensate the plaintiff for harm done, usually by paying monetary **damages**. In certain instances a court might also order the defendant to stop the troubling behavior.

Although a tort and a crime are two different legal categories, the same illegal activity can be both a crime and a tort. For example, a person who breaks into a house has committed a crime and can be prosecuted by the state. The offender has also committed a tort, and the victim may sue to recover monetary damages.
The Idea of Liability

The rules that govern civil wrongs are called tort law. Tort law deals with basic questions such as (1) who should be liable, or responsible, for harm caused by human activities, and (2) how much should the responsible person have to pay. Almost any activity—driving a car, operating a business, speaking, writing, or using property—can be a source of harm and therefore of tort liability. Knowledge of torts can help people resolve their conflicts, often without going to court.

Tort law also establishes standards of care that society expects from people. Simply put, the law requires us to act with reasonable care toward people and their property. Failure to exercise reasonable care that causes harm may result in legal liability. The person harmed may sue the person who acted unreasonably for damages. Requiring payment of damages compensates the victim for losses and encourages more reasonable behavior.

Whenever a person is injured, someone must bear the cost of the harm. Broken bones create medical bills that must be paid. A hospitalized person will miss work and lose earnings. Damaged property costs money to repair. Less tangible costs, such as emotional suffering, may also be a cost of an injury.

Tort law is concerned with determining who must pay. When a person either purposely or through carelessness causes injury to another, society usually thinks that the wrongdoer, rather than the victim, should bear the cost of the harm. However, sometimes an injury is partially or entirely the fault of the victim, or nobody is at fault, as in the case of true accidents. In such cases, tort law provides no remedy, or something to make up for the harm done. As a result, the victim will usually have to bear the costs of the injury.

Liability—legal responsibility for harm—is not the same as moral responsibility. A person may be morally at fault for harming someone but not civilly liable for the injuries. For example, assume you lie to a friend about the correct time, causing her to miss a job interview. As a result, she does not get the job. The lie would be morally wrong and would cause harm but would not usually result in civil liability. In contrast, someone may be civilly liable for injuries to another without being morally at fault. For example, in strict liability cases the law makes certain parties bear the cost of injuries even though there is no proof of fault. (Strict liability is discussed in detail in Chapter 21.) However, moral fault is one of the many considerations that courts often look at in developing the law of torts and drawing up the rules of who will pay for injuries people suffer.
Problem 18.1

Read the descriptions of each of the following cases. Each involves an injury. Assume that a civil suit is brought by the injured person. For each case, (1) identify the plaintiff and the defendant or defendants, and (2) determine whether the defendant should pay for the plaintiff’s damages. Explain your answers.

a. Sixteen-year-old Carrie is babysitting for her four-year-old niece Jill. Carrie leaves Jill alone in the living room and goes into the kitchen to use the phone to call her boyfriend. From the kitchen she can hear but not see Jill. While Carrie is out of the living room, Jill falls off a chair and is hurt.

b. Ben, a defensive tackle on the high school football team, tackles a teammate in a full-contact practice. When the teammate hits the ground, his shoulder is dislocated.

c. Mr. Ghosh owns a large apartment building. When his janitors wax the lobby floor, they place a 12-inch-square sign near the front door that reads: “Caution. Wet Floors.” Mrs. Gonzalez is hurrying home from shopping with two large bags of groceries. She does not see the sign and slips and falls on the freshly waxed floor, injuring her knee and arm.

d. Corina leaves a sharp knife on the kitchen table after making a sandwich. A three-year-old neighbor who has been invited over to play with Corina’s daughter climbs up onto a chair, grabs the knife, and seriously cuts his finger.

e. Jamal, a school bus driver, has a heart attack one morning while driving the bus carrying students to school. As Jamal loses consciousness, the bus slams into a wall, injuring several of the students. One month earlier during a routine check up, Jamal’s doctor had warned him of his heart condition.

f. Matt and Emily are sitting in the upper deck of the stadium behind first base at a major league baseball game. A foul ball hit by their team’s star player bounces off a nearby railing, smacking Matt in the head and giving him a concussion.

g. Jess, an expert auto mechanic, continues to drive her car even though she knows that the brake linings are badly worn. Driving below the speed limit on a rain-slick road at night, she slams on the brakes and skids into a bicyclist who is riding one foot away from the right curb.

Liability for injuries sustained at sporting events, at school, and at home can be difficult to determine. What factors are considered when determining liability?
Tort law provides a legal process for injured persons to recover monetary damages from wrongdoers who cause them harm. The two parties can simply meet and discuss how to compensate the injured person. The agreement they reach is called a settlement. If, however, they cannot agree on compensation, or if the wrongdoer insists that he or she was acting reasonably when the injury occurred, then the injured party may decide to sue. In such instances, a trial may be conducted to decide the rights and liabilities of both parties.

Settlements are much more common than trials. Approximately 90 percent of tort cases filed in court are settled without a trial. For cases that do go to trial, there can be delays of a year or more between the time the case is filed in court and the trial.

The following example illustrates the tort law process. Evan claims that Martha shoved him, causing him to fall down a flight of stairs and break his leg. Evan wants $5,000 from Martha to compensate for his injury. This dispute can be resolved in at least three different ways.

First, Martha could acknowledge that she acted unreasonably and agree to pay a settlement of $5,000. However, a settlement does not have to be for the full amount demanded, and usually the amount is a result of a compromise between the two parties. Besides negotiating a settlement, other forms of dispute resolution could allow Martha and Evan to avoid a civil trial. (Methods for settling disputes are discussed in Chapter 4.)

Second, Martha could argue that she did not act unreasonably—that Evan ran past her, bumped into her, and then tripped down the stairs—and refuse to pay any monetary damages. If Evan wanted to recover the money, he would have to sue Martha in court.

In a third scenario, Martha might admit nudging Evan a bit but claim that she should have to pay only $4,000, because the $5,000 Evan wants includes money for a subscription to cable television, a DVD player, and three DVDs that Evan bought when he was home in bed for two weeks. Here, the dispute is not about liability but about the amount of damages. In this situation, Evan might accept Martha’s $4,000 offer, or he might sue Martha for $5,000. However, there is risk in not accepting the $4,000. If a court decides that Martha did not act unreasonably, then Evan might not recover any damages at all!
The Idea of Torts: Yesterday, Today, and Tomorrow

The concept of a tort is not new. Judges in England were deciding tort cases as far back as the fifteenth century. Tort law has always tried to weigh the usefulness of certain conduct against the harm that conduct might cause.

Tort law is generally based on common law. This is law made by judges through court decisions, generally in state appellate courts. These decisions are written down, and appellate decisions become precedents used to decide future cases. Tort law may also be based on statutes, or written laws. For example, in some states, laws specifically provide that a person who is injured as a result of someone furnishing alcohol to a minor may be awarded damages in civil court. The damages are paid by the person who served the alcohol to the minor. In other states, this same law exists as a result of an appellate court decision, rather than the passage of a statute.

There are a number of specific torts, which are described later in this chapter. There is also a saying that “for every interference with a recognized legal right, the law will provide a remedy.” If you can convince a judge that you deserve compensation for some injury, you may occasionally be able to recover damages without fitting your case into an existing category of tort protection.

Tort law seeks to balance usefulness and harm. For example, how safe must a drug be before the manufacturer is not considered legally responsible in the event that the drug harms somebody? If a drug is discovered that saves the lives of many cancer patients but causes the deaths of a few, should the drug manufacturer be liable for the deaths?

Tort law balances usefulness and individual choice with harm. Should cigarette companies and drug manufacturers be held liable for side effects or illness incurred by people who use their products?
The Lung Cancer Death

Mrs. Garrett dies of lung cancer at the age of 42. Her family brings a civil suit against ABC Tobacco Company, the manufacturer of the cigarettes she had smoked daily for the previous 20 years. Her doctors say that cigarette smoking was the major factor in her death.

Problem 18.2

a. If you were the Garrett family’s attorney, what arguments would you make at the trial? What evidence would you want to introduce during the trial?

b. If you were the attorney for the ABC Tobacco Company, what arguments would you make for the company at the trial? What evidence would you want to introduce to support your arguments? How would such evidence help your case?

c. If you were the Garrett family’s attorney, would you want a jury to decide this case? Would it be better to try this case to a judge? Why?

d. Assume that each package of ABC cigarettes carries the following warning to consumers: “Caution: Cigarette smoking can be harmful to your health.” How should this case be decided? Explain the reasons for your decision.

Tort law also tries to preserve individual choice. Since the mandatory government warning about the dangers of smoking is prominently displayed on the package, adults are permitted to purchase cigarettes. Many people believe that this product may be more harmful than useful. However, some people argue that letting adults purchase cigarettes preserves their individual choice and that the warning allows the individual to make an informed choice. Others criticize this government decision and argue that the sale of cigarettes should be further restricted or banned.

Tort law is often at the forefront of public controversy in the United States. It is closely related to economic and political policy decisions. As you will see throughout this unit, tort cases often involve a clash of values and interests. As a result, arriving at fair solutions is rarely easy.

Types of Torts

Tort liability exists for three major categories of conduct: intentional wrongs, acts of negligence, and activities for which strict liability is imposed. An intentional wrong is an action done with the intent of injuring a person, his or her property, or both. For example, Ali is mad at Tom, so he intentionally smashes a window of Tom’s car. Tom may sue Ali to recover the cost of the damage to his window.
In another example, Lucy writes a letter telling her friends that Andrew is a drug addict, even though she knows this is not true. Andrew may recover damages from Lucy for harm to his reputation caused by her intentional lie.

Intentional torts may also be crimes. In these cases, the defendant can be prosecuted by the state as well as sued by the plaintiff. However, punishing a criminal does not make up for the harm to the victim. A separate civil tort action is used to recover monetary damages.

The most common tort is negligence. **Negligence** is an unintentional tort. It occurs when a person’s failure to use reasonable care causes harm. If a drunk driver accidentally hits a pedestrian, the driver is negligent. Although the driver might not have intended to hurt the pedestrian, he or she acted unreasonably in driving drunk and will be liable for the harm caused to the pedestrian.

**Strict liability** differs from both negligence and intentional wrongs. It applies when the defendant is engaged in an activity so dangerous that there is a serious risk of harm even if he or she acts with utmost care. In order to recover damages in a strict liability case, a plaintiff is not required to prove that the defendant was negligent or intended to cause harm. For example, you are hit by a brick falling from a building being demolished. In this case, you do not have to prove that the contractor was careless or intended to hurt you. Demolishing buildings is so dangerous that contractors are automatically responsible if a passerby is injured. For the most part, three groups of people face strict liability: (1) owners of dangerous animals, (2) people who engage in highly dangerous activities, and (3) manufacturers and sellers of defective consumer products.

Not all injuries to you or your property will lead to a recovery under tort law. In some instances, harmful behavior may not be a tort. In other cases, the person causing the harm may have a legal defense to a tort action. In still other cases, the defendant may be liable but may simply be unable to pay for the harm caused to the plaintiff.

**Problem 18.3**

Determine whether a tort has been committed in each situation below. If there is a tort, is it an intentional wrong, an act of negligence, or an activity for which strict liability should be imposed? Explain.

**a.** José trips over his untied shoelace while running to catch a bus, breaking his ankle.

**b.** Mr. Slifko buys a strong painkiller at the drugstore and takes the capsules according to the directions on the package. He has an extremely bad reaction to the drug and has to be taken to the hospital.

**c.** Chen drinks too much alcohol at the office holiday party. His supervisor, Ruth, advises him to take a taxi home, but he thinks he will be okay if he drives slowly. Not noticing a stop sign, he strikes and kills a pedestrian crossing the street.
Tort law is civil law. Civil law deals with disputes between individuals or groups of individuals. In a civil case, the injured party may sue the party who caused the damage. This differs from criminal law, in which the state brings charges against the accused. Criminal law deals with actions that are defined as crimes against the general public, even if there is an individual victim.

In some situations, an act can be both a tort and a crime. This may lead to two separate actions—civil and criminal—against the defendant. For example, Chen (Problem 18.3 on the previous page) may be sued for driving while intoxicated and killing a pedestrian. Chen may also be charged with the crime of negligent homicide or manslaughter for his actions.

The criminal case will be brought by the state, which must prove beyond a reasonable doubt that Chen was guilty. This is called the standard of proof. It is the amount of evidence the prosecutor must present in order to win the case.

The victim’s family may also sue Chen in civil court. In the civil case, the victim’s family will attempt to recover damages for the wrongful death. The civil court will use preponderance of the evidence as the standard of proof. This standard requires that to win, more than 50 percent of the weight of the evidence must be in the plaintiff’s favor. The civil standard is easier to meet than the criminal standard. This is appropriate, because the penalties for those found liable in a civil action are less severe than the penalties for those found guilty of a crime. A person does not go to jail for committing a tort but instead pays damages to those injured.
Who Can Be Sued?

Almost anyone can be sued, including individuals, groups of individuals, organizations, businesses, and even units of government. Plaintiffs sometimes sue several different defendants at once. Typically, plaintiffs try to sue a defendant who has enough money to pay for the damages. This is called looking for a defendant with deep pockets. For example, suppose you slip on a wet rag that the janitor left on the floor of a local restaurant. You break your leg as a result of the fall. You will probably sue the restaurant owner rather than the janitor because the owner will usually have deeper pockets—more money—from which to pay monetary damages.

People can sue employers for torts committed by employees in the course of their employment. The reason for this rule is that the employer is usually in a better position than the employee to handle the cost of the suit. The employer, for example, may purchase liability insurance or raise prices to cover the costs associated with a lawsuit. In addition, imposing financial responsibility on the employer encourages employers to be very careful when hiring, training, assigning, and supervising employees.

Children who commit torts may also be sued for damages. To recover damages from a minor, you must prove that the child acted unreasonably for a person of that age and experience. Because most children do not have deep pockets, plaintiffs often sue the child’s parents.

The Case of . . .

The Spilled Peanut Butter

Mr. Grant is in Foodland Supermarket doing the weekly grocery shopping. His four-year-old daughter Jenny is seated in the shopping cart. As they pass a large peanut butter display, Jenny reaches out and pulls a jar off the shelf. The display collapses, and a dozen jars come tumbling down. Some of the jars break, spreading peanut butter and glass all over the floor. Mr. Grant scolds Jenny severely as he wheels her down the aisle.

Ten minutes later, Mrs. Hightower slips and falls on the peanut butter. She breaks her hip in the fall and suffers several deep cuts from the broken glass. Because she is elderly, the hip injury develops complications and may never heal properly.

Problem 18.4

a. Whom should Mrs. Hightower sue for damages? Why?

b. Which possible defendant is likely to have the deepest pockets?

c. Who, if anyone, was at fault in this case? Give your reasons.

d. What methods other than a civil trial could the plaintiff use to deal with this situation? How would these methods work? (Refer to Chapter 4 and the discussion on settling disputes.)
For example, suppose a child leaves toys on the front step, injuring a visitor who trips on them. The visitor may sue the parents and try to prove that they were negligent in either failing to supervise their child or in allowing a hazard to exist on their property.

Certain defendants are immune, or protected, from some kinds of tort suits. In some situations, social traditions dictate that for public policy reasons certain groups of people should not be sued, even though their conduct may have been improper. These immunities include suits against governments and certain government officials. Generally, courts do not allow children to sue their parents or vice versa. Historically, courts have also refused to allow husbands and wives to sue each other in tort actions. This restriction was due to the traditional idea that the husband and wife were one legal entity! Times change and so do tort laws. Today many states allow husbands and wives to sue each other for certain torts. Even where these intra-family immunities remain, brothers and sisters may be able to sue each other in civil actions.

The federal and state governments are also immune from tort liability unless they waive, or give up, this immunity. The notion of government immunity comes from England, where there was a tradition that “the king can do no wrong.” Today the federal government, through the Federal Tort Claims Act, has agreed to be held liable in civil actions for negligent acts or omissions by government employees. While the Federal Tort Claims Act does not allow citizens to sue the federal government for most intentional torts, other laws may allow citizens to recover damages from the federal government for intentional violations of their rights. Similar laws exist at the state level.

The president, federal judges, and members of Congress are completely immune from tort liability for acts carried out within the scope of their duties. However, in the 1997 case of Clinton v. Jones, the U.S. Supreme Court found that the president was not immune from being sued while in office for a tort he allegedly committed before he was president. Other high-ranking officials, including presidential aides and members of the cabinet, have qualified immunity, meaning that they can be sued only if they knew or should have known that their acts were violating the legal rights of another person.
Sometimes there can be more than one plaintiff or injured party in a situation. In some cases, hundreds of people may be injured by one action. When this happens, the injured parties may form a “class” and bring their lawsuit together. This is called a *class action*. For example, if an entire town gets its drinking water from the same source and an industrial plant pollutes the water, the townspeople may file a class action suit against the company. The settlement or damage award will be divided among the people who bring the suit.

People wishing to file a tort action should hire an attorney to file the legal papers, to negotiate with the other side, and, if necessary, to represent them at trial. Some lawyers will work for a *contingency fee*. This means the lawyer does not charge the client an hourly fee. Rather, the lawyer receives a portion of the recovery—typically between 30 and 40 percent—if the plaintiff wins. If the plaintiff loses, the attorney does not receive a fee. However, the plaintiff might have to pay certain reasonable expenses such as the cost of filing the lawsuit. This arrangement allows a person who might otherwise be unable to afford an attorney to be represented in a tort action. The contingency fee is, of course, something of a gamble for the attorney. Lawyers rarely agree to this type of arrangement unless the plaintiff has a strong case and a good chance of recovering damages.

The contingency fee may not always be a good arrangement for the plaintiff. For example, a lawyer may be able to negotiate a large settlement with an insurance company without even filing a case in court. In such a case, it may be better for the plaintiff to hire a lawyer on an hourly basis or for an agreed-upon, overall fixed fee. Otherwise, the plaintiff could end up paying the attorney more money through a contingency fee arrangement.

**The Case of . . .**

**The Steering Wheel Failure**

Sarah buys a new car at Town and Country Motors. Just before her first scheduled maintenance visit (at 3,000 miles), she hears a strange noise in her steering wheel. She tells the service manager about the sound, and he notes it on the work order. After picking up the car the next day, she has a serious accident when the steering suddenly fails. The car is totaled, and her medical bills from the accident are more than $30,000.

**Problem 18.5**

a. Could Sarah bring a civil action? Who are the potential defendants in this case?

b. Who do you think would win? Why?

c. Should Sarah hire a lawyer on a contingency-fee, hourly, or fixed-fee basis? Explain your reasoning.

d. What methods other than a civil trial could the plaintiff use to deal with this situation? How would these methods work? (Refer to Chapter 4 and the discussion on methods to settle disputes.)
The Case of . . .

The Airline Explosion

On December 21, 1988, a bomb was smuggled onto an international flight from Frankfurt, Germany, to New York City. The flight carried 259 passengers, many of them students returning to the United States from a European trip, along with a crew of 11. The bomb exploded over Lockerbie, Scotland, killing everyone on board. The bombers were later identified as being from Libya.

Problem 18.6

a. Could the families of those who died in the explosion bring a class action? Explain your answer.

b. Who are the possible defendants in this case? Explain your answer.

c. Which defendant, if any, should be held liable for the deaths?

d. How much should a family receive in damages for the wrongful death of a loved one? Explain your answer.

Insurance

Americans buy billions of dollars of liability insurance every year so that when an accident occurs, the injured party can recover money from the wrongdoer’s insurance company, not from the wrongdoer. While insured persons must sometimes go to court, most tort cases between insurance companies and injured persons are settled without resorting to a trial.

Liability insurance is a contract, or agreement. The insured person agrees to make payments—known as premiums—to the insurance company, and the company agrees to pay for damages caused by the insured persons for the length of the contract. Insurance companies set a limit on how much they will pay. Usually the contract requires the insurance company to provide an attorney to defend the insured person in court.

Most doctors, lawyers, and other professionals carry liability insurance to protect themselves against malpractice suits. These are lawsuits brought by clients or patients who claim that a professional person provided services in a negligent manner. Plaintiffs in malpractice cases sometimes win verdicts or settle for large sums of money—sometimes millions of dollars. Without liability insurance, doctors and lawyers would be personally liable for these verdicts.
Manufacturers often carry liability insurance to protect against lawsuits brought by customers who are injured when using the manufacturers’ products. For manufacturers and professionals alike, the cost of insurance is usually added into the price of their products or services. This allows them to spread the costs of insurance among all of their customers or clients.

Homeowners and renters may also carry liability insurance. These policies cover the loss and damage of the insured person’s property. For example, if your personal property is taken during a burglary, you can ask the insurance company for money to replace the stolen items. This is more practical than suing the burglar.

While many different types of liability insurance exist, very few insurance policies cover intentional harm caused by the insured person. Therefore, a home owner’s insurance policy will not pay damages if the home owner assaults a guest.

**Insuring a Car**

Auto insurance is the most important liability insurance for young people. In 2006, approximately six million automobile accidents were reported to police in the United States. These accidents resulted in...
more than 42,000 deaths—41 percent of which involved alcohol—and more than 2.5 million injuries. These accidents caused more than $230 billion in losses. So it is not surprising that most states require drivers to carry insurance and that many drivers purchase more insurance than their state requires.

Auto insurance protects you by promising to pay for certain possible losses. Insurance can pay for the cost of repairing your car, medical bills, lost wages, and pain and suffering arising from injury. When you buy auto insurance, you can choose various coverage combinations. Coverage depends on the kind of protection you want and how much you can afford to pay. Common kinds of coverage include liability, medical, collision, comprehensive, uninsured motorist, and no-fault.

Your auto liability insurance pays for injuries to other people and property if you are responsible for the accident. This type of insurance may include representation in court by the insurance company’s attorneys or payment of your legal fees. Liability coverage pays for damages up to, but not more than, the limits listed in your policy. If injuries and property damage are greater than the policy limits, you will have to pay the difference.

Liability policies generally have three limits on how much a person can collect: (1) a limit on injuries per person, (2) a limit on total injuries to all persons involved in the accident, and (3) a limit on property damage per accident. For example, a “100/300/50” policy would pay up to $100,000 per person for personal injury, $300,000 per accident for all personal injuries, and $50,000 per accident for property damage. Sometimes an injured person brings a lawsuit against the driver or car owner who is responsible for the injuries sustained in an accident.

Having auto insurance will help protect you if you are ever involved in an accident. What are the common types of auto insurance coverage?
Because the damages in these cases can be very high, you should carefully consider how much insurance you carry on your car. For example, a $50,000 limit on injuries per person might be far less than the damage incurred in a serious accident. If you were negligent and caused an accident, you would be liable for the amount in excess of your insurance policy limit.

Your medical coverage pays for your own medical expenses resulting from accidents involving your car or the car you are driving. It also pays for the medical expenses of any passengers in your car, no matter who is at fault. The amount of medical benefits and the kind of medical costs covered, such as hospital bills and office visits, are limited in the policy. For example, medical coverage may be limited to $100,000 per person injured. This amount is usually in addition to the coverage you receive through your health insurance.

Your collision coverage pays for damage to your own car, even if the accident was your fault. Collision coverage usually pays up to the actual value of the car but not for its replacement with a new car. You can lower the cost of collision insurance by including a deductible, which is an amount that you agree to pay toward repairs before the insurance company pays anything. For example, a $100 deductible means that if your car has $250 in damages, you will pay $100 and the insurance company will pay the remaining $150. The higher the amount of the deductible, the less expensive the collision insurance.

Problem 18.8

You have an eight-year-old car with a market value of only $4,000. The annual cost of collision insurance is $500. If your state does not require collision insurance, should you continue to purchase it? Give your reasons. Should you carry liability insurance? Explain.

The Case of . . .

The Nonstop Car

Pulling into the left lane to pass a slow-moving truck, Terrell saw the traffic light ahead turn yellow. “If I step on it, I’ll make this light,” he thought. He accelerated, exceeding the speed limit slightly. Just then an oncoming car made a left turn in front of him. Terrell hit the brakes, but it was too late, and they crashed. A few seconds later, pinned against the steering wheel, he saw the other driver, Candace, stagger out of the car, bleeding and holding her shoulder in pain.

Problem 18.9

a. Who should be responsible for the medical bills and car repair bills resulting from this accident?

b. In most cases, who pays for repairs resulting from auto accidents?
Your comprehensive coverage protects you against damage or loss to your car from causes other than collisions. For example, comprehensive coverage includes damages due to vandalism, fire, or theft. Read your policy carefully to determine whether valuables in your car, such as a CD player, are covered in case of theft. Insurance policies sometimes include—usually at an extra charge—coverage for towing or car rental costs.

Your uninsured motorist coverage protects you from other drivers who do not have insurance or do not have enough insurance. It does this by paying you for the personal injuries or damage they cause. Be sure to find out how much your policy pays for personal injuries caused by uninsured motorists and whether it pays for damages to your car. Uninsured motorist coverage is usually an inexpensive and worthwhile addition to your policy.

Only a few states have no-fault insurance. If you have no-fault insurance, your own insurance company will pay up to a certain amount for injuries you receive in an accident, regardless of who is at fault. In exchange for this payment, you typically must waive your right to sue the other party to recover any damages. Notice the difference between no-fault and liability insurance. With liability insurance, your company pays the other driver only if you were at fault, whereas no-fault laws may allow settlement of such claims without the delay and expense of determining fault in a court case. Some people criticize no-fault benefits because they are limited to a certain amount of money and usually cover only personal injuries but not damages to your car. However, when damages are higher than the no-fault limits, the injured person may be able to sue the other party.
Problem 18.10

Reread The Case of the Nonstop Car on page 228. Assume that the accident happened in a state without no-fault insurance and that both Terrell and Candace had insurance coverage. Each had a policy covering all types of losses that included a $250 deductible for collision insurance. Also assume that Terrell was at fault.

a. Whose insurance company would pay for Candace’s hospital and car repair bills?

b. Whose insurance company would pay for Terrell’s hospital and car repair bills?

c. What do you think would happen if the damages to Candace and her car were greater than the limits of Terrell’s policy?

d. If the damages were less than the policy’s limits, would Terrell have to pay any money to get his car fixed?

Workers’ Compensation

Every state has a workers’ compensation system that operates to automatically compensate, or pay, employees who are injured on the job. Employers make regular contributions to a state fund or buy insurance for this purpose. Workers are compensated for injuries that occur in the course of their employment. However, they do not have to go to court to prove that their employer was at fault. Workers also receive a portion of their salary while they are recovering and unable to work. Many states provide employees with two-thirds of their regular salary. In exchange, the injured employee usually gives up the right to sue his or her employer. Accidents that occur while the employee is commuting to or from work are rarely covered.
Unlike the plaintiffs in typical tort cases, workers can usually recover monetary damages for their injuries even if they were negligent. However, workers’ compensation statutes generally deny recovery when the accident was caused by the employee’s intoxication. In addition, nearly half of the states either reduce or prohibit recovery when a worker’s refusal to follow safety rules caused the accident. For example, a welder who is blinded on the job after ignoring repeated warnings to wear safety goggles would not be able to recover money under workers’ compensation statutes in some states.

The amount of money awarded for a specific injury is limited according to a schedule the state determines. The schedule sets the amount a worker can recover based on the seriousness of the injury, the amount of time the worker is expected to be out of work, and the worker’s average weekly wage. Workers cannot usually recover additional damages from the employer through a civil tort action. This means that workers’ compensation is the exclusive remedy, or the only compensation for on-the-job injuries.

A worker who is injured on the job must notify the employer. Often the employer will ask a doctor to certify the injury. Then either the employer or the injured employee will file a claim. After the claim is filed, the injured employee will regularly receive a workers’ compensation payment, just like a paycheck. The payments will continue until the employee can return to work or recovers from the injury.

Many states have a workers’ compensation commission that hears claims and decides how much money will be given to injured workers. If the commission decides that little or no money should be given, the injured person may appeal to a court.

The Case of... The School Slip and Fall

Mrs. Braun is the art teacher at Central High School. Dale is a tenth-grade student. One day the maintenance staff forgot to display a warning that the floors had been mopped and were wet. The stairway to the art studio was so slippery that Dale fell down the stairs, breaking his arm. Mrs. Braun was teaching class at the time. When she heard the noise of his fall, she ran out to see what was wrong. She, too, slipped and broke her ankle.

Problem 18.11

a. Who is responsible for Dale’s injury? For Mrs. Braun’s injury?

b. From whom can Dale recover damages? Is there a limit to the amount he can recover?

c. From whom can Mrs. Braun recover damages? How will she recover these damages? Is there a limit to the amount she can recover?

d. Why does the law treat these two injured people differently? Is this fair? Explain.