Who Can Be Held Responsible for a Truck Accident?

A tractor-trailer crash often involves more than one responsible party. The driver, the trucking company, the owner of the trailer, the company that loaded the cargo and the manufacturer of a defective part can each play a role. Sorting out legal responsibility is one of the first tasks for a tractor-trailer crash lawyer, because each party may carry its own insurance.

Claims against the driver

The starting point is usually 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.

Why the trucking company is usually a defendant

If the driver is an employee working within the scope of the job, the trucking company is generally answerable for the driver's negligence under vicarious liability, sometimes called respondeat superior. The company can also face direct claims for its own conduct, such as negligent hiring, negligent retention, negligent supervision and negligent entrustment. Under the Federal Motor Carrier Safety Regulations, a trucking https://atlantatruckaccidentlawyers.wiki/checking-a-firms-truck-practice/ 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 for a truck accident lawyer the driver qualification file is often one of the first documents requested.

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 name marked on the cab, the bill of lading and the lease itself help show which company was operating the truck. An 18-wheeler accident attorney typically requests these documents early.

Shippers and freight brokers

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 a shipper or loading company that controlled how the freight was loaded may share responsibility in some cases. Claims against a freight broker that arranged the shipment raise separate questions, including federal preemption, and the answer turns on the specific claim and facts.

Manufacturers and repair shops

If brakes, tires, atlanta truck accident lawyer steering parts or an underride guard fail because of a defect, the manufacturer may face a product liability claim. A maintenance contractor that performed faulty repairs can also be named. Telling a defect apart from poor maintenance usually requires inspecting the parts before they are repaired or scrapped.

How fault and insurance fit together

Federal financial responsibility rules in 49 CFR Part 387 require at least $750,000 in public liability coverage when for-hire interstate trucks with a gross vehicle weight rating of 10,001 pounds or more haul nonhazardous property, and certain hazardous materials require higher minimums. Most states apply comparative negligence, which may reduce damages by the injured person's percentage of fault, while a few still follow contributory negligence. A truck accident lawyer looks at all of the parties, since a single policy may not cover the full loss. This article is general information, not legal advice, and it does not predict the result of any claim.