

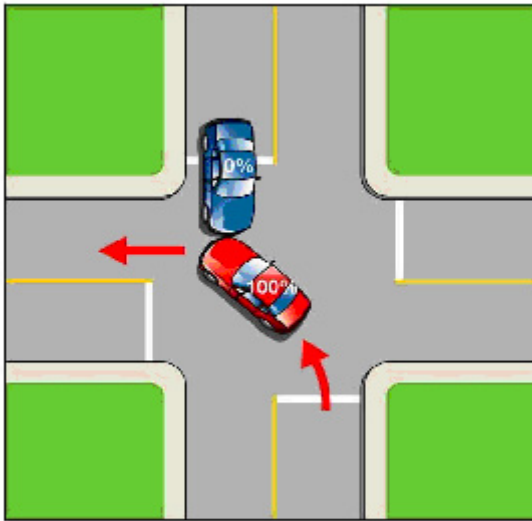
Turning left against oncoming traffic

Crash example: A vehicle turns left across the path of oncoming traffic at an intersection. (*Motor Vehicle Act*, Sections 165, 174)

A court will generally rule that the left-turning vehicle is 100 per cent at fault. If the left-turning vehicle starts its turn after the traffic light has turned yellow, fault may be split. (*Motor Vehicle Act*, Section 128)

A vehicle should not start its turn if the traffic approaching from the opposite direction is so close as to be an immediate hazard. However, if the vehicle has started turning legally, through-traffic must yield to the turning vehicle. (This situation often arises when a left-turning vehicle gets caught in the intersection before it is able to complete its turn.)

In some cases involving left turns, the courts may decide that the through vehicle is partly at fault. This may happen when vehicles in two lanes have stopped to let an oncoming vehicle turn in front of them, then another vehicle in the curb lane proceeds into the intersection without slowing down or otherwise paying attention to the turning vehicle. Speeding and/or generally not paying attention may also result in the through vehicle being partly at fault.



Motor Vehicle Act section(s): Sections 165, 128, 174

Who did the courts find at fault?

When ICBC assesses who is at fault for a crash, we do so based on how the courts have decided fault in previous, similar crashes.

The courts have the final say about who is at fault. Here is what the courts in British Columbia have decided in cases like the crash example above:

Related B.C. court cases

- [McCowan v. Arjune](#)

- [LeSavage v. Lee](#)
- [Dhaliwal v. Robinson](#)
- [Raie v. Thorpe](#)

McCowan v. Arjune

The British Columbia Court of Appeal case of *McCowan v. Arjune* [2002] BCCA 267, involved an accident in Surrey. One driver headed east was making a left-hand turn northbound, when he was struck by another driver coming eastbound. The eastbound driver said that he had a flashing green arrow, and therefore had the right of way. The westbound driver said she had a solid green and therefore she had the right of way.

The Court of Appeal thought that the trial judge was not wrong in looking at all the evidence and the testimony of the witnesses, and concluding that the westbound vehicle did not have a flashing green light. The light at that intersection was triggered only if there was a car in the turn lane five seconds before the other light turned red. The trial judge had concluded that there had been no car there to trigger it. In addition, the westbound driver did not have time to avoid the accident or to have yielded to the left-turning driver. The left-turning driver was 100 per cent at fault.

LeSavage v. Lee

In *LeSavage v. Lee* (1999 CarswellBC 1066), the British Columbia Supreme Court said that a driver who was turning across three lanes of traffic was the servient driver, and that the driver who was passing in the third through-lane closest to the curb was the dominant driver. (In law, the servient driver was the one who had to prove that the dominant driver was also at fault. If there was any doubt, the dominant driver should have been given the benefit of the doubt.)

In this case, the turning vehicle made the turn abruptly and without stopping. He was unable to see if cars were approaching in the curb lane. Indeed, the other driver was approaching in the curb lane. The judge regarded this as an immediate hazard to the turning car. The judge said that the turning driver was 80 per cent at fault and the curb lane driver was 20 per cent at fault, because she was driving too fast.

Dhaliwal v. Robinson

In the British Columbia Court of Appeal case of *Dhaliwal v. Robertson* [1999] 68 BCLR (3d) 33, a female driver was travelling east on South East Marine Drive during rush hour on a dark and rainy night. At about 5:30 p.m., she approached the intersection at Beatrice Street. She was driving in the outside lane of S.E. Marine Drive, passing by the traffic on her left which was stopped, or in the process of stopping, to let a left turning driver coming from the opposite direction on Marine Drive to pass across. She broadsided the left-turning vehicle. She did not slow down even though she didn't know why the traffic was stopping.

The court said that even though the female driver had the right-of-way on the throughway, because the other driver's left turn had already started, the female driver was 85 per cent at fault. The turning driver was only 15 per cent at fault.

Raie v. Thorpe

In the British Columbia Court of Appeal case of *Raie v. Thorpe* [1963] 43 WWR 405, one driver was travelling east along Hastings Street during rush hour. When he was about 250 feet from the intersection of Gore Avenue, he noticed another driver stopped in the other direction with his left indicator on, waiting to turn left across Hastings Street onto Gore Avenue. When the through driver was about 150 feet away, the driver waiting to turn began his left turn, but then stopped again a little way over the centre line into the other driver's lane. It was raining at the time and the through driver had remarked to his friend that he hoped the turning driver was not going to move, because he was not going to be able to stop. However, when he was about 50 feet away, the other driver did suddenly attempt his turn, but again stopped, this time in front of the driver coming towards him, and they collided.

The court said that who was at fault depended on whether or not the throughway driver on Hastings Street was so close to the intersection that he was an "immediate hazard" to the other driver. In other words, if there was a real threat of a collision if the turning driver tried to make the turn in front of the throughway driver, then the turning driver should not have attempted his turn. If he still attempted the turn and a collision did occur, the turning driver would have been 100 per cent at fault. Only if the driver proceeding straight through the intersection had enough time to avoid the collision would he have been partly at fault for having failed to avoid the collision. In this case, the driver proceeding through the intersection was so close that there was a real threat of them colliding, yet the other driver still tried to make the turn, and therefore was 100 per cent at fault.