

QUESTION: Can an employee who gets injured while driving to or from work collect Workers' Compensation benefits?

ANSWER: Unless a drive involves an employment-related errand, generally no. To be compensable, the injury must be one "arising out of and in the course of the employment ..." ([Section 10 of the New York Workers Compensation Law](#).) New York courts have held, "While it is the general rule that injuries incurred by an employee while commuting to and from work are not deemed to arise out of the course of employment for the purposes of the Workers' Compensation Law, an employer who assumes, by contract or custom, the responsibility of transporting its employees must likewise bear the responsibility for the risks encountered in that transportation..." (see [Schauder v. Pfeifer](#), 173 A.D.2d 598 (1991).)

Here are three examples to illustrate:

- I drive from my house on Tuesday morning with Big I New York's office as my only planned destination. While stopped in traffic on the highway, my car gets hit from behind by a driver looking at his phone. I am probably not eligible for Workers' Comp benefits because I was on my regular commute.
- I leave my house for the office on Tuesday morning, but I have been asked to pick up a business visitor at the airport. Someone runs a red light at the airport's entrance and collides with my car. Because I was performing a work-related errand, I may be eligible for Workers' Comp benefits.
- I leave my house for the office on Saturday afternoon to pick up a jacket I left there on Friday. Another driver becomes enraged when I putter along at 70 MPH on the highway and causes me to crash. I am probably not eligible for Work Comp benefits because I was going to the office for personal reasons; the trip arose out of my forgetfulness, not my employment.

Unless your work involves your car, Workers' Comp benefits do not apply when you're driving.