TRANSPORT INSIGHTS

NAVACORD®

Liability Risk Is Scaling Faster Than Coverage

For years, nuclear verdicts felt like a United States problem. Canadian fleets watched from a distance, reassured by a different legal culture and historically lower jury awards.

THAT SEPARATION IS NO LONGER CLEAN.

Canadian transportation companies with United States exposure increasingly face the same litigation dynamics affecting American fleets. Large verdicts, aggressive plaintiff strategies, and third party litigation funding are shaping outcomes on both sides of the border. Canadian insurers and industry groups now point to similar legal trends emerging domestically, even if the scale remains lower for now.

The shift is already visible in claims data. According to the Insurance Bureau of Canada, commercial auto insurers have faced a steady rise in both claim frequency and claim severity in the trucking sector, with claim costs increasing faster than the number of incidents. Between 2015 and 2023, claim costs rose sharply in multiple regions, including a 166 percent increase in Alberta alone. This trend reflects more than inflation. It reflects a changing litigation environment.

WHY THIS MATTERS

Insurers no longer assess liability risk based only on how often accidents occur. They assess how a single loss could develop in court.

This shift toward severity has meaningful consequences for fleet operators. A severe claim can now escalate far beyond traditional expectations, driven by higher repair costs, more complex injuries, and increasingly sophisticated legal strategies. Plaintiffs are seeking larger damages, and legal teams are becoming more effective at framing negligence claims in ways that resonate in court.

Third party litigation funding is adding another layer of pressure. In Canada, legal financing is largely unregulated and is being used to support claims that may not have moved forward otherwise. Industry reports suggest this trend is contributing to increased litigation activity, including a rise in class actions and more aggressive legal advertising. As a result, more claims are being pursued, and more resources are being applied to maximize settlements and awards.

For cross border fleets, the exposure is immediate. A single incident in the United States can trigger a large award that exhausts primary limits and significantly impacts excess layers. However, the effect is not limited to those operating internationally. Canadian only fleets are also affected as reinsurers and insurers evaluate the broader severity trend and adjust pricing, capacity, and underwriting expectations accordingly.

THE ISSUE IS NOT FREQUENCY. THE ISSUE IS SCALE.

Many fleets still carry liability limits that were designed for a different risk environment. These limits can be quickly outpaced by today's legal costs, especially when defence expenses, settlements, and reputational harm are considered together. At the same time, gaps in documentation or inconsistent safety practices can amplify perceived negligence and increase settlement pressure.

HOW BROKERS CAN HELP

Brokers play a critical role in helping clients respond to this shift. The most effective approach is proactive and structured.

The first step is stress testing liability programs. What would a catastrophic loss look like for this fleet today? Would current limits withstand legal costs, potential damages, and business disruption? This type of scenario analysis helps clients move beyond minimum requirements and align coverage with real exposure.

Next comes program design. In a high severity environment, structure matters as much as price.

Brokers can help clients build layered liability programs, diversify capacity across insurers, and reduce reliance on any single market. This approach creates resilience and improves access to coverage over time.

Brokers can also influence outcomes before a claim occurs. Underwriters increasingly review the same operational details that plaintiff counsel will examine in litigation. Driver qualification files, safety policies, and post incident response procedures all shape how a case is perceived.

Evidence from litigation research shows that factors such as hiring practices, onboarding procedures, and operational controls can directly influence the size of awards in trucking cases. When documentation is incomplete or inconsistent, it creates an opportunity to build a narrative of negligence. When it is thorough and well organized, it supports a defensible position.

Helping fleets formalize hiring standards, implement consistent training, and maintain clear records reduces courtroom vulnerability. Strengthening incident response protocols also ensures that critical information is captured early, before legal narratives take shape.

These actions are practical and measurable. They also deliver value beyond insurance by improving operational discipline and risk awareness across the organization.

CONCLUSION

Litigation severity has arrived in Canada by proximity, if not yet by volume.

The legal and insurance environments are evolving together, driven by rising claim costs, expanding litigation activity, and new financial influences such as third party funding. While Canada has not reached the same level of exposure seen in the United States, the direction of change is clear.

Brokers who treat this as a distant issue risk leaving clients underprepared.

The most valuable brokers will lead informed conversations about severity, structure coverage with intent, and support clients in strengthening their operating practices. Liability is no longer just a limit on a policy. It is a strategic risk that requires active management.

In today's environment, preparation determines survivability as much as insurance capacity does.

If you have questions specific to your business, or would like additional information, please reach out to your Navacord Insurance Services Alberta Inc. Advisor.