

WHAT COMPENSATION MIGHT I RECEIVE?

COMPENSATION EXPLAINED



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COMPENSATION ENTITLEMENT

If you have suffered injuries and financial losses as a result of an accident that was not your fault (or you have developed an illness or medical condition because of someone else's negligence) you can claim 2 types of compensation:-

“General Damages” - for your injuries

“Special Damages” - for your financial losses and expenditure resulting directly from the accident

GENERAL DAMAGES

This is to compensate for your “pain, suffering and loss of amenity”, and in most cases forms the largest part of the compensation.

The level of general damages applicable in your claim is based on the type of injuries you have suffered, how long it will take for you to recover and whether you will have any long term or permanent effects, eg scarring.

“Loss of amenity” is the extent to which your life has been affected by of the accident. You may be a keen golfer and are unable to play because of your injuries, or you might not have been able to participate in other hobbies even if only for a short time. This also covers any changes that you have had to make in your employment because of your injuries, and any inability to carry out household or domestic tasks, etc that you used to perform.

SPECIAL DAMAGES

This is to reimburse you for your financial losses and any expenses you have had to incur as a direct result of the accident. Examples of the types of special damages that you may be able to claim are set out below.

We will send you a questionnaire to complete with as much information as possible and will ask you to return this to us with all receipts, invoices or other documents in support of the amounts you wish to claim. It is often easier to recover specific items if you can produce evidence that the expense has been incurred. You can keep topping up this information during the claim, and before any settlement negotiations are started we will send you for approval a “Schedule of Special Damages” setting out all the items that you wish to claim.

Loss of earnings

This includes wages that you have already lost and, if appropriate, income that you might have received in the future, but will not now do so because of the accident.

We can normally calculate your losses by obtaining details from your employer of all money paid to you for a 13 week period prior to the accident and since the accident.

If your employer has paid you anything while you were off work, eg contractual sick pay (but not Statutory Sick Pay) and your employment contract requires you to reimburse this, we will claim it on your behalf so you can reimburse your employer from your compensation.

Calculating your anticipated future loss of earnings can be more difficult, but is usually only necessary if your injuries are very severe. In such cases we might need to assess the level of any pay increases, promotion prospects and other benefits (eg pension) that you would likely have enjoyed if the accident had not happened.

Travelling expenses

You can claim either the fare paid (eg for bus, train or taxi) or at the rate of 45p per mile and any parking fee, for journeys taken because of the accident, eg:-

- a) Visits to your GP, hospital or other medical practitioner providing treatment.
- b) Attending the appointment with the medical expert.
- c) Other journeys, but you will need to state why each one was necessary.
- d) Journeys by close relatives to visit you in hospital.

Medical and care expenses

These items can include:-

- a) Hospital charges for emergency treatment.
- b) Prescription charges and the cost of non-prescription items, eg pain killers.
- c) Surgical supports, bandages, tubigrip, etc.
- d) Treatment provided by physiotherapists, or other practitioners on a private basis.
- e) The cost of treatment in a private hospital might also be recovered if the NHS waiting list is too long.
- f) Care provided by Social Services or a private agency.
- g) Care provided by family or friends, claimed at an hourly rate (eg help with cooking, cleaning, personal hygiene, etc) - but usually only a proportion of the amount claimed is actually paid.

Other expenses or items of specific loss

These items can include:-

- a) Repair or replacement costs for damaged clothing, jewellery or other belongings.
- b) Items bought because of the injuries, eg larger clothes or shoes while in plaster.
- c) Additional utilities costs because you had to spend more time at home than normal.
- d) Additional telephone and postal costs in contacting people involved in the claim.
- e) Vehicle repair or storage costs and any policy excess, following a car accident.

Miscellaneous expenses or losses

These items can include:-

- a) Costs incurred in employing others to carry out domestic cleaning, decorating, general DIY, gardening, etc that you would have dealt with yourself but were unable to because of your injuries.

- b) Sums lost in having to cancel activities or holidays.
- c) Costs incurred in obtaining specialised equipment or in adapting your home or car if your injuries are particularly severe.

It is not always possible to recover every item that you claim, but the more evidence provided in support of each specific item, the more chance you have of recovering it.

WHO DECIDES HOW MUCH I RECEIVE?

General Damages

We will arrange for a medical expert to consider your medical records, examine you and prepare a detailed report describing your injuries, any treatment received or suggested and indicating when you are likely to recover. We will send you a copy for approval.

If your claim is straightforward we will be able to assess the amount of compensation you are likely to receive by comparing your claim with similar cases where compensation has already been paid, and also by looking at the Court's guidelines on the value of certain injuries. If your claim is more complicated we will send details to a Barrister, who will advise on the amount of compensation you may receive.

Your compensation may be reduced if the accident was partly your fault.

Agreeing the compensation to be paid

We will send the medical report and Schedule of Special Damages to your opponent's insurers with the aim of negotiating a settlement with them. We will consult you before reaching a final agreement.

If negotiations are not successful an application to the Court may be necessary, and if so we will explain the process to you. It is still possible to agree a settlement even after the Court has become involved and very few cases need to be decided by a Judge at a trial.

STATE BENEFITS

Any State benefits you have received as a direct result of the accident may need to be repaid so that you are not compensated twice. We will discuss the details with you in this situation.