

HOW MUCH IS YOUR CLAIM WORTH?

You may have heard that insurance companies use a secret mathematical formula to figure out how much compensation should be paid to someone for accident injuries. The formula part is true, but it certainly isn't secret. And the formula doesn't actually determine how much compensation someone receives. It is just a device insurance adjusters use to begin the process of figuring out how much a claim is worth. The final depends on several other factors.

In general, a person who is liable for an accident--and therefore his or her liability insurance company--must compensate an injured person for:

- Medical care and related expenses.
- Income lost because of the accident, because of time spent unable to work or undergoing treatment for injuries. It doesn't matter whether the injured person has a full-time or part-time job, regular or occasional employment, an hourly wage or salary, or is self-employed.
- Pain and other physical suffering.
- Permanent physical disability or disfigurement.
- Loss of family, social and educational experiences, including missed school or training, vacation or recreation, or a special event.
- Emotional damages, such as stress, embarrassment, depression or strains on family relationships--for example, the inability to take care of children, anxiety over the effects of an accident on an unborn child, or interference with sexual relations.
- Damaged property, which occurs most frequently in vehicle accidents (not only to the vehicle itself, but also to its contents).

The Damages Formula--Demystified

It is usually simple to add up the money spent and money lost, but there is no precise way to put a dollar figure on pain and suffering or on missed experiences and lost opportunities. That's where the insurance companies' damages formula comes in.

At the beginning of negotiations on a claim, an insurance adjuster adds up the total medical expenses related to the injury. These expenses are referred to as "medical special damages" or simply "specials." That's the base figure the insurance adjuster uses to begin figuring out how much to compensate the injured person for pain, suffering, and other non-monetary losses, which are called "general" damages.

The adjuster multiplies the amount of special damages by 1.5 or 2 when the injuries are relatively minor, and up to 5 when the injuries are particularly painful, serious or long-lasting. The adjuster then adds on any income lost as a result of the injuries.

That's all there is to the formula. The total--medical specials multiplied by a number between 1.5 and 5, then added to lost income--is the number from which negotiations begin.

The Deciding Factors: Which End Is Up?

Several things determine how large a "multiplier"--the number between 1 and 5--the insurance adjuster applies to the special damages in your claim.

- The more painful the injury, the higher the multiplier.
- The more invasive and longer-lasting the medical treatment, the higher the multiplier.
- The more obvious the medical evidence of the injury, the higher the multiplier.
- The longer the recovery period, the higher the multiplier.
- The more serious and visible any permanent effect of the injury, the higher the multiplier.

The multiplier also depends on the type of medical treatment given. Treatment that doesn't come directly from physicians--even if they recommend or order it--isn't valued as highly. That means such treatments as physical therapy, acupuncture, chiropractic therapy or massage therapy are generally not given as much weight when the insurance adjuster decides on a multiplier.

Example 1: Werner tripped and fell over a hose. At the emergency room, doctors found a small crack in his wrist. The bone required no cast, Werner required no treatment and he lost no time from work.

Because they found a break, the multiplier in Werner's damages formula would go up from 1.5 times medical specials to perhaps 3 times. But because it involved no treatment, no substantial recovery time and no permanent effects, it probably would not go any higher than that.

Example 2: Alicia tripped and fell on a broken stair. Her wrist was fractured badly enough to require a cast for six weeks, another four weeks of physical therapy and eight more weeks of only light use before it returned to normal.

Because the break required a cast and the recovery time was relatively long, the multiplier applied in Alicia's case would probably be about five times medical specials.

Fault: The Final Frontier

Once you know how insurance companies use the damages formula to start negotiating, you are more than halfway home to figuring out the total compensation value of your claim.

Basically, the other elements in deciding how much your claim is worth boil down to how the insurance company thinks a jury would decide your claim if it wound up in court. And in measuring its chances in court, the insurance company has to figure in the cost of putting up a legal fight, on top of what a jury might award you, compared with the amount your claim could be settled for without going to court.

The extent each person is at fault is the most important factor affecting how much the insurance company is likely to pay. The damages formula tells you how much your injuries might be worth, but only after you figure in the question of fault do you know how much your claim is actually worth--that is, how much an insurance company will pay you.

Example: The cracked wrist bone you suffer in a slip and fall results in \$1,000 in medical specials, but you suffer no permanent injury. Applying the damages formula to your injuries might result in a figure of between \$3,500 and \$5,000, depending on all the other factors discussed.

If your accident was clearly and completely someone else's fault--your car was stopped at a red light when someone ran into you from behind, for example--then your claim is likely to be worth the full amount of the formula total, that is, between \$3,500 and \$5,000.

If, on the other hand, the accident was partly your fault, the amount your claim is worth would be reduced by the degree you were to blame--expressed in a "percentage" of fault. So, if you were 25% at fault for the accident, your claim would be reduced by 25% from a \$3,500 to \$5,000 range to a range of \$2,650 to \$3,750.

If it appeared that you were mostly at fault, the value of your claim would be greatly reduced, perhaps to nothing. But more likely, you could get a very small amount, referred to as "nuisance value."

Determining fault for an accident is not an exact science. But in most claims, both you and the insurance adjuster will at least have a good idea whether the insured person was entirely at fault, you were a little at fault or you were a lot at fault. And whatever that rough percentage of your comparative fault might be--10%, 50%, 75%--is the amount by which the damages formula total will be reduced to arrive at a final figure.

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