

Personal injury Special Damages Information

Special Damages

These are items of financial loss suffered from the date of the accident until the date of the trial, the object of this is to reimburse the Claimant for what you have lost or for any property damaged in the accident.

Special damages typically include the categories set out below:-

Net loss of earnings to the date of trial (i.e. income tax and National Insurance are deducted). This is calculated on the basis of the Claimant's average earnings for a period of 26 weeks prior to the accident. Any tax rebate is deducted but not proceeds from charitable donations or private insurance.

Cost of damage to clothing or property such as a vehicle. The cost of repair or write off value can be claimed.

Travelling expenses.

Losses and expenses incurred by third parties.

Value of services provided by third parties, provided such services are necessary, for example home help, gardener.

Private medical treatment, even if treatment is available under NHS.

Nursing care provided by either relatives or professional carer.

Receipts or invoices should be kept if possible.

General Damages

General damages is an award made dependant on the nature and extent of the personal injuries. The various heads of damage are as follows:-

Past and future pain and suffering attributable to the injuries and their treatment.

Loss of amenity, which is the loss of ability to lead and enjoy a full life.

Loss of future earnings from the date of trial to the date when that person should have retired.

Loss of earning capacity. This compensates somebody if they are put at a disadvantage on the open labour market.

Future expenses after trial.

Interest

Interest must be awarded on damages exceeding £200 unless there are special reasons to the contrary.

The amount of interest depends on the nature of damages:

On special damages - at half the Courts special investment account rate from the date of the accident to trial.

On general damages at 2% per annum from the date the claim form is served.

Recoupment of Social Security Benefits

These will be recovered in respect of an accident, injury or disease where person claiming the benefits also receives compensation from a third party. Where this applies the Defendant is responsible for repaying the benefits.

Provisional Damages

Provisional damages may be awarded where there is a chance that the Claimant may develop some serious disease or deterioration of his physical or mental condition arising out of the original act or omission.

The claimant is awarded damages on the assumption that the disease or deterioration does not occur but that should it occur the Claimant may seek a further award of damages. However, it is very rare that this is awarded.

Structured Settlements

These provide for damages to be paid by instalments under an annuity contract upon which the Claimant is not liable for income tax. A structured settlement can only be made with the agreement of all parties and Court approval.

In addition to receiving periodic payments under the structured settlement, it is usual for there to be a smaller lump sum award.