

State of the nation

A guide to procedural rules, limitation periods, assessment of damages and recent cases for personal injury claims in each Australian state

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A guide to personal injury claims in Australia
– updated for 2024–25

Australia’s personal injury legislation creates a distinct legal landscape in each state—with every jurisdiction’s unique framework shaping your reserves, settlement approaches, and ultimate claims outcomes.

This year’s guide cuts through the complexity of Australia’s varied personal injury frameworks. We’ve mapped out how each state’s legislation—from the *Civil Law (Wrongs) Act 2002* (ACT) in the Australian Capital Territory, the *Civil Liability Act 2002* (NSW) in New South Wales, the *Wrongs Act 1958* (Vic) in Victoria, the *Personal Injuries Proceedings Act 2002* (Qld) (PIPA) in Queensland, the *Civil Liability Act 2002* (WA) in Western Australia or the *Uniform Civil Rules 2020* (SA) in South Australia—affects daily decision-making and long-term claims management.

For insurance leaders focused on results, we’ve benchmarked critical elements that influence your bottom line: jurisdiction-specific limitation periods, threshold provisions that determine claim validity, and assessment methodologies that impact settlement figures. We’ve also highlighted recent court decisions that are reshaping claims outcomes across portfolios.

We’ve designed this resource for busy insurance professionals who need practical insights, not just legal theory. Whether you’re comparing liability positions across multiple states, briefing your teams on jurisdictional nuances, or developing more effective reserve protocols, this guide delivers the state-by-state intelligence you need.

If you would like to strengthen your claims strategy, WK’s General Liability Partners are available to discuss how these jurisdictional differences can be leveraged to optimise your claim outcomes. You can find their contact details at the end of this report.



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Contents

[Australian Capital Territory](#)

[New South Wales](#)

[Queensland](#)

[South Australia](#)

[Tasmania](#)

[Victoria](#)

[Western Australia](#)

[Index – General Damages Guides](#)

[WK Partner Contacts](#)

Australian Capital Territory

Procedural rules and key dates

A comprehensive set of pre-litigation procedures for personal injury claims arising from alleged negligence is established under the *Civil Law (Wrongs) Act 2002* (ACT) (**the Wrongs Act**), with supplementary rules provided in the corresponding Regulations.

Section 51 Notice of Claim

The first pre-litigation step is to provide a **notice of claim**. Except for motor vehicle accident claims (which follow their own pre-litigation procedure) and claims arising from alleged child abuse, section 51 of the Wrongs Act requires that such notice be provided within the earlier of:

- 9 months from the accident giving rise to the personal injury or the day symptoms of the injury first appeared; or
- 4 months from the claimant instructing a lawyer to advise on damages for the personal injury or the day the respondent is identified (whichever is later).

Notice of claims arising from alleged child abuse need only be given a “reasonable time” before the commencement of the proceedings.

Any delay in providing notice of a claim may be excused by providing a reasonable explanation.

Section 51 of the Wrongs Act and its corresponding Regulations set out the information required to be provided in the notice of claim. Among other requirements, the notice must include:

- the claimant’s identification (which entails their full name, residential address and date of birth);

- details about the accident (including the date, time location, and a description of how the accident occurred);
- identification of any individuals who provided witness statements;
- details about the nature and treatment of the injury;
- particulars of economic loss; and
- an authority enabling the respondent (or its insurer) to obtain records relevant to the claim.

All the information required under the Wrongs Act is critical to a respondent’s ability to undertake liability and quantum investigations. It is therefore prudent to ensure all the information and, in particular, the authority are provided.

Response to the Notice of Claim

Following the notice of claim, the respondent is required:

- Within 1 month of receipt of the claimant’s notice of claim, **to raise any issues** about the claimant’s compliance with section 51 of the Wrongs Act. If this does not occur, the notice of claim is deemed to be compliant and the respondent will have no recourse to seek that the claimant rectify any non-compliance. It is therefore important that close and careful attention be given to the contents of the notice of claim at the earliest opportunity (even if a legal representative has yet to be appointed).

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There is no cap on non-economic loss in the ACT and general damages are assessed at large, based on the facts and circumstances of each case and by reference to earlier comparable cases.

- Within 1 month of receipt of a *complying* notice of claim, to **notify a claimant whether it is a proper respondent** to the claim. If a respondent is unable to determine whether it is the proper respondent, it must inform the claimant of the additional information required in order to make that determination. If the respondent concludes that it is not the proper respondent, it must communicate this to the claimant and provide any information that may assist in identifying the proper respondent.
- Within 6 months of receipt of a *complying* notice of claim, **to investigate the claim** and advise the claimant whether liability is admitted or denied. In that same timeframe, the respondent is also required to have made a fair and reasonable estimate of the damages and to seek to **resolve the claim** with the claimant.

Exchange of documents and information

To assist the parties to be able to properly consider the claim (including any quantum and liability issues), Part 5.3 of the Wrongs Act provides for the exchange of documents and information between the parties. This disclosure obligation extends to investigative reports, medical reports and reports relevant to the claimant's rehabilitation.

With the exception of documents and information already in the possession of the other party, the general rule is that documents must be disclosed within 1 month of receipt. A failure by a party to disclose a document may result in that party being unable to use the document in subsequent court proceedings. To enhance the enforcement of the parties' obligations under Part 5.3 of the Wrongs Act, the Court is empowered to provide assistance on application by a party.

Court proceedings

While the Wrongs Act seeks to mandate pre-litigation steps, it is not uncommon for claimants to commence court proceedings notwithstanding non-compliance with these requirements. That non-compliance will not be sufficient to warrant a permanent stay of proceedings and it is therefore incumbent upon respondents to raise any non-compliance with the court. Respondents should give consideration whether to apply for a temporary stay of the proceedings or whether non-compliance can be adequately addressed by adjustments to the standard court timetable.

Once proceedings are on foot, both the Magistrates and Supreme Courts in the ACT have comprehensive practice directions which provide a framework for the progress of litigated claims from the initiation of proceedings to final hearing. In short, both courts require parties to work towards having matters finalised within 12 months of the initiation of proceedings.

Limitation periods

In the ACT, limitation periods are governed by the *Limitation Act 1985* (ACT) (**the Limitation Act**).

Under the Limitation Act, personal injury claims are generally not maintainable if initiated more than 3 years after the day the claimant was injured, or after the claimant became aware that they had suffered an injury related to someone else's act or omission.

However, there are several exceptions to the general rule, including the following:

- There is no limitation period if the cause of action substantially arises from sexual abuse to which the claimant was subjected when they were a child.

- Compensation to relatives' claims must be brought within 6 years following the relevant wrongful act or 3 years following the death of the person injured in that act (whichever is later).
- Claims arising out of motor vehicle accidents will turn on the scheme which was in place at the time of the accident.

Assessment of damages

Non-economic loss / General damages

Except in motor vehicle accident claims (where non-economic loss is limited to damages for loss of quality of life), non-economic loss in the ACT is awarded to compensate claimants for pain and suffering, loss of amenities, loss of expectation of life and disfigurement. There is no cap on non-economic loss in the ACT and general damages are assessed at large, based on the facts and circumstances of each case and by reference to earlier comparable cases.

Past and future out-of-pocket expenses

Claimants are entitled to recover out-of-pocket expenses directly attributable to their injuries resulting from a compensable incident. These comprise a broad range of costs, including medical fees, hospital bills, and travel expenses associated with obtaining necessary treatment. Any amount paid by Medicare, private health insurers or workers compensation insurers are also recoverable where those entities seek reimbursement from the claimant from any judgment or settlement. In addition, future treatment costs, projected based on the trajectory of the claimant's recovery and ongoing medical needs, are also recoverable. The determination of these anticipated expenses is typically guided by expert medical evidence.

Economic loss

Claimants are entitled to claim for loss of earning capacity causally related to injuries arising from compensable incidents. In its simplest form, this is calculated as the difference between what the claimant was earning on a net basis prior and after the incident.

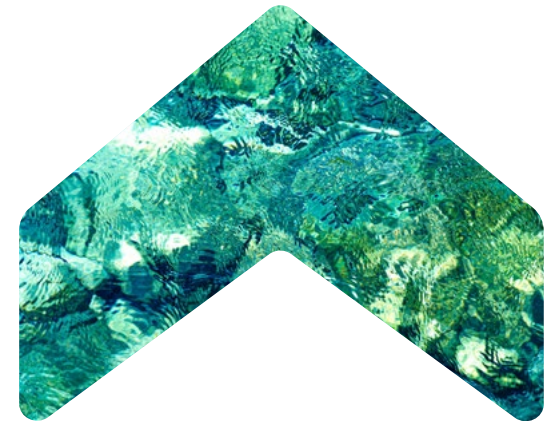
Where a claimant has been in receipt of incapacity payments from a workers compensation insurer, this amount is recoverable by the claimant but will form part of a payback to the workers compensation insurer following judgment or settlement.

Awards for the future are generally calculated up to usual retirement age (eg. 67) but may extend beyond that age if the claimant can establish an intention to work beyond then but for their injuries. Where a mathematical calculation can be made for future loss, the multiplier tables are utilised and discounted at 3%.

Lost superannuation is also recoverable by reference to the relevant superannuation guarantee at the time. Future loss of superannuation is commonly assessed at 12%, being the superannuation guarantee rate from 1 July 2025. However, it was acknowledged in *Hall v Martin* [2020] ACTSC 233, that self-employed persons and contractors are not entitled to superannuation losses.

Fox v Wood damages

This is the income tax component of any incapacity payments made by the workers compensation insurer. Allowance for this head of damage ensures the workers compensation insurer is reimbursed for the totality of the payments it has made even though the claimant does not receive the benefit of that portion of the incapacity payment.



Domestic assistance and care

Claimants are entitled to recover an amount for domestic assistance and care (whether gratuitous or paid) which they have required as a consequence of injuries sustained in a compensable incident. Domestic assistance and care can include the following:

- household tasks (including grocery shopping, meal preparation, laundry and cleaning chores);
- gardening (such as mowing the lawn and watering the garden);
- house maintenance (such as changing light bulbs, cleaning the gutters and drains);
- vehicle maintenance (including washing the car and car repairs previously conducted by the claimant);
- personal care (including assistance with showering, body care, dressing and using the toilet); and
- assistance with other domestic responsibilities which the claimant would otherwise have undertaken for the benefit of others (such as their children).

Gratuitous domestic assistance and care provided is generally determined by the market value of the services, currently at a rate of \$60 per hour.

The claimant's need for domestic assistance and care in the future is usually guided by expert evidence and occupational therapists who have expertise in this field and are also often able to provide an assessment of the likely commercial cost of provision of the domestic assistance and care needs of the claimant.

Other notes

Injured Workers

The *Workers Compensation Act 1951* (ACT) (**WC Act**) establishes the workers compensation scheme in the ACT. It provides benefits for workers who sustain injury (or develop an illness) during the course of their employment on a no-fault basis. The scheme allows payments for medical expenses incurred, lost wages and, if the required percentage as set out in the WC Act is reached, compensation for permanent injuries. Unlike other jurisdictions, there is no restriction on the duration a worker can receive workers compensation benefits, though there is scope for workers to agree to accept a lump sum payment in commutation of their ongoing entitlements.

Workers are not restricted from bringing a concurrent or subsequent common law claim against their employer and/or any other negligent person or entity. Those claims and any entitlement to damages are governed by the *Wrongs Act*.

If any employer does not hold workers compensation insurance, a worker can bring their claim (including any common law claim) against the statutory Default Insurance Fund. However, if there is any other person or entity from whom the worker can recover damages, the Default Insurance Fund will have no liability. Should the Default Insurance Fund be required to make payment to the worker (including in respect of any common law claim), it can seek to recover those payments at a rate of three times from the uninsured employer.

Australian Federal Government Employees

The workers compensation scheme for employees of Federal Government agencies and statutory authorities is governed by the *Safety, Rehabilitation and Compensation Act 1988* (Cth) (**the SRC Act**). The SRC Act provides a similar entitlement to incapacity payments and treatment expenses to Federal Government workers injured in the course of their employment. The Scheme is managed by Comcare.

While employees can elect to bring a common law claim against their employer, damages are restricted to non-economic loss and are capped. However, these restrictions do not apply for claims against negligent third parties.

Recent cases at a glance

Case	Plaintiff details	Cause of action	Injuries	General damages	Total damages
<i>Marhaba v Chen</i> [2024] ACTSC 241 & [2024] ACTSC 288	Female, 46	Negligence – motor vehicle accident	Aggravation of lower back injury – Plaintiff suffered pain into the right lower limb, neck, head and right arm as a result of motor vehicle accident	\$75,000	\$155,524
<i>Gibson (a pseudonym) v Askim Pty Ltd ATF the Askim Trust trading as Central Café Group</i> [2024] ACTSC 203	Female, 16	Negligence – workplace accident	Physical and psychological injuries as a result of illness – Plaintiff contracted salmonella at her workplace	\$35,000	\$65,573.34
<i>Alananzeh v Zgool Form Pty Ltd</i> [2024] ACTSC 16	Male, 26	Negligence – workplace accident	Slip and fall at construction site – Plaintiff was working as a labourer at a construction site. While carrying building materials on the rooftop, he slipped and fell, injuring his back.	\$100,000	\$243,900
<i>Tattersall v Dormakaba Australia Pty Ltd</i> [2023] ACTSC 390	Male, 41	Negligence – workplace accident	Head injury – A chain box for manually operated roller door fell on the Plaintiff's head causing a deep laceration to the back of his head and a mild traumatic brain injury	\$170,000	\$347,470
<i>Meas (by his litigation guardian Adcock) v Tipping</i> [2023] ACTSC 187	Male, 10 months old	Negligence – motor vehicle accident	Serious bodily injuries and brain injury – Plaintiff was a passenger in a car which was struck by another car, causing death of his mother.	\$450,000 plus interest	\$6,085,323.21 plus interest
<i>SS (a pseudonym) v OT (a pseudonym) & Anor</i> [2023] ACTSC 111	Female, 3 months old	Negligence – motor vehicle accident	Serious bodily injuries and brain injury – Plaintiff was a passenger in a car which turned out of a service station onto the wrong side of the road and collided with another vehicle.	\$566,393 (settlement approved by the Court)	\$2,818,000 (settlement approved by the Court)

New South Wales

Procedural rules and key dates

There are no regulated or mandated pre-litigation steps for general liability (personal injury) claims in NSW (this does not apply to personal injury claims arising from motor vehicle accidents or employment).

A request for 'preliminary discovery' can be made under the *Uniform Civil Procedure Rules 2005* (NSW) (**UCPR**). This is usually done by way of letter to a relevant person requesting documents enabling a claimant to decide:

- if they should commence court proceedings; and/or
- who to sue.

If a request for preliminary discovery is not appropriately responded to, a claimant may:

- (a) file an application in court requesting the respondent to provide the requested documents or information – this can have costs consequences; or
- (b) simply commence substantive proceedings for damages in Court.

For the court to make discovery orders in a personal injury case, it must be satisfied that the claimant has made 'reasonable enquiries' but was still unable to decide if or who to sue, and that there are 'special reasons' justifying an order for discovery (eg factual or legal complexity, or prejudice to the claimant if the order is not made).

Limitation periods

The timeframe for commencing court proceedings is regulated predominantly by the *Limitation Act 1969* (NSW) (**Limitation Act**).

Where the injury or death occurs on or after 6 December 2002, the limitation period is ordinarily 3 years from when the cause of action is 'discoverable' by the claimant: (ss50C and 50D of the Limitation Act). Such an action may not be time barred where a lay claimant with limited skills is represented by solicitors who fail to prosecute a defendant within the relevant time (*Agri Grain Pty Ltd v Rindfleish* [2024] NSWCA 295).

For injuries occurring in the course of employment, the timeframe for commencing court proceedings against the injured worker's employer is ordinarily 3 years from the date of the injury (s151D of the *Workers Compensation Act 1987* (NSW) (**WCA**)). Exceptions include cases where the worker's condition did not stabilise within 3 years to enable an assessment of the pre-requisite 15% whole person impairment (**WPI**).

Actions arising from death or personal injury due to child abuse or dust inhalation have no limitation period.

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For the court to make discovery orders in a personal injury case, it must be satisfied that the claimant has made ‘reasonable enquiries’ but was still unable to decide if or who to sue, and that there are ‘special reasons’ justifying an order for discovery.

Product liability

There are similar provisions under the *Consumer and Competition Act 2010* (Cth) (**CCA**), which is federal legislation, concerning concepts such as discoverability and the 3 year post-discoverability limitation period (ss87F to 87K).

Assessment of damages

The assessment of damages for personal injury liability claims in NSW is predominantly governed by the *Civil Liability Act 2002* (NSW) (**CLA**) or the Federal CCA, whichever applies.

If there is a degree of uncertainty as to whether or when an ‘economic loss’ will arise in future (or whether the loss will entirely be related to the injuries), the court may impose a percentage discount on the award of damages for expenses, assistance and income loss to account for that uncertainty. This is called a discount for the ‘vicissitudes of life’; the standard discount is considered to be 15% but it may be less or more depending on each case (s13 of CLA; *Avopiling Pty Ltd v Bosevski* [2018] NSWCA 146).

Multiplier tables are used for future calculations, discounted at 5%.

Heads of damages

Non-economic loss

Damages for non-economic loss seeks to compensate for pain and suffering, loss of enjoyment of life, scarring and/or loss of life expectancy.

Non-economic loss is assessed by the court, with reference to comparable cases from the past, as a percentage of “a most extreme case” and is based on the way the claimant’s injuries have affected them personally.

The CLA and CCA both prohibit awards for any injuries falling under 15% of a most extreme case and provide for differing monetary awards (at the time of judgment) corresponding with each percentage from 15% upwards as indexed each year (ss16 to 17A of the CLA; ss87L to 87T of the CCA).

Past and future out-of-pocket expenses

A claimant is entitled to expenses reasonably incurred to the date of judgment due to their injuries (eg. medical, hospital and travel etc.) as well as any expenses they will likely incur in future.

Amounts paid by Medicare and private health insurers are recoverable.

The future assessment will usually be guided by the expert medical evidence.

Past and future gratuitous and commercial domestic care and assistance

These payments seek to compensate:

- the claimant’s family or friends for unpaid assistance provided or likely to be provided to the claimant based on average weekly earnings in NSW. This is known as “gratuitous” assistance. Both the CLA and the CCA prohibit awards of damages in this regard unless the assistance has been maintained or will be maintained at a minimum of 6 hours per week and for at least 6 consecutive months (s15 of the CLA; s87W of the CCA);
- the claimant’s dependants to whom the claimant was providing gratuitous assistance, which was likely to continue but for the injuries. A similar threshold applies (ie. a minimum of 6 hours per week and for at least 6 consecutive months but for the injuries (s15B of the CLA; s87X of the CCA)); and

- the claimant directly for any expenses reasonably incurred or likely to be incurred in paying for professional assistance (which is calculated at a higher rate). This is known as ‘commercial assistance’. There is no minimum hourly or monthly threshold for this award, but in terms of the future the claimant must be able to prove that gratuitous assistance will not reasonably be available to them in order to justify a court order for ongoing commercial assistance (*Miller v Galderisi* [2009] NSWCA 353).

The assessment will generally be guided by the opinions of Occupational Therapists who have expertise in this field (*Sampco Pty Ltd v Wruth* [2015] NSWCA 117) although there are instances where an Occupational Physician’s opinion will be accepted (*Ray v Southon* [2022] NSWCA 267).

Past and future loss of income

These payments seek to compensate injured claimants for lost earnings from business or employment, depending on their residual income capacity.

The assessment, which is subject to differing statutory maximums under the CLA and the CCA, will generally be guided by expert medical evidence and the level of pre and post-injury earnings shown from tax and other income records.

Awards for the future may be up to the statutory retirement age (ie. 67) or an older age if the claimant establishes they had an intention to work beyond.

Loss of superannuation is also compensable, usually at around 11% of the past net loss and around 14% of the future net loss.

Multiplier tables are used for future calculations, discounted at 5%.

Fox v Wood damages

This is the taxable amount paid by an injured worker on wages paid under the Workers Compensation scheme, and is recoverable if the Workers Compensation insurer is entitled to recover the gross amount paid to the worker (s151Z of the WCA).

Injured workers

Injured workers in NSW have access to a statutory scheme governed by the WCA and *Workplace Injury Management and Workers Compensation Act 1998* (NSW) (**WIM Act**). The scheme allows periodic payments for medical expenses incurred, lost wages and a one-off lump sum compensation depending on the percentage of the worker’s Whole Person Impairment (**WPI**), provided the injured worker’s WPI is assessed at greater than 10% (ie. 11% or higher)

If an injured worker attains an undisputed 15% WPI or more, they are entitled to recover modified common law damages from their employer arising from negligence. This is called a Work Injury Damages (**WID**) claim (s151H WCA).

Section 151Z of the WCA enables the Workers Compensation insurer to recover the statutory benefits it has paid from any negligent third party. The following can happen:

- the employer (via the Workers Compensation insurer) can commence independent 151Z proceedings for recovery against the non-employer tortfeasor, even if the injured worker did not make a claim against the non-employer tortfeasor. The employer will need to prove the non-employer tortfeasor was negligent and the notional assessment of damages to the injured worker is equal to or exceeds the indemnity sought to be recovered;

- if the injured worker has attained 15% WPI or more, the employer may be joined to any proceedings commenced against the non-employer tortfeasor. Subject to all defendants being found to have a primary liability to the injured worker, the Court may apportion liability (and damages) between the employer and the other defendants, noting an injured worker’s entitlement to damages against their employer is restricted to modified common law damages (ie. past and future economic loss damages, s151G WCA); and
- if the injured worker has not attained 15% WPI and has not sued the employer but has made a claim against the non-employer tortfeasor nonetheless, the non-employer tortfeasor’s liability for damages may be reduced to reflect the percentage share of the absent employer’s responsibility (s151Z(2) WCA).

In circumstances where the injured worker is entitled to pursue WID proceedings against their employer (ie. the 15% WPI threshold is satisfied) and does take proceedings against the employer, the extent to which the employer can recover the workers compensation payments pursuant to s151Z may be reduced. However, when paying any modified common law damages to the claimant, the employer still gets credit for wage payments previously made pursuant to s151A which operates independently of s151Z (see *South West Helicopters Pty Ltd v Stephenson* [2017] NSWCA 312; *Synergy Scaffolding Services Pty Ltd v Alelaimat* [2023] NSWCA 213; *Synergy Scaffolding Services Pty Ltd v Alelaimat (No 2)* [2024] NSWCA 11).

Recent cases at a glance

Case	Plaintiff details	Cause of action	Injuries	General damages	Total damages
<i>Agrigrain Pty Ltd v Rindfleish</i> [2024] NSWCA 295	Male, 41	Public Liability	Skull fractures requiring surgical fixation, neurological/sensory changes, and facial scarring. Plaintiff injured by shrapnel from an explosion at a grain factory where he worked.	32%	\$216,500
<i>Bartlett v De Martin & Gasparini Pty Ltd</i> [2024] NSWSC 1172	Male, 43	Public Liability	Lumbar spine injuries requiring multiple surgeries and causing radical changes in the Plaintiff's lifestyle due to ongoing pain and restriction. Plaintiff was injured at work while carrying a heavy concrete hose with a co-worker.	35%	\$252,500
<i>Manhattan Homes Pty Limited v Burnett</i> [2024] NSWCA 219	Male, 59	Public Liability	Traumatic brain and spinal injuries. Plaintiff fell through a cavity on a construction site where he was a subcontractor.	45%	\$342,500
<i>Kennedy v Malhotra</i> [2024] NSWSC 576	Female, 42	Medical Negligence	Undetected cervical cancer due to alleged medical negligence. Plaintiff did not succeed in establishing liability but a provisional quantum assessment was made nonetheless.	70%	\$533,000
<i>Hodson v Hurex Pty Ltd and Lederer Pty Ltd</i> [2024] NSWDC 143	Male, 53	Public Liability	Psychological injury (PTSD, Major Depression, Anxiety). Plaintiff was asked to attend work on his rostered day off following a fatal incident at the loading dock of a shopping centre and observed gruesome injuries on the deceased's body. Evidence showed he had a pre-existing psychological condition.	30%	\$166,000
<i>Alderson v Gause; Alderson</i> (Compensation to Relatives) [2024] NSWDC 152	Females, 27 and 53	Compensation to Relatives	Psychological injuries suffered by deceased's partner and mother. Plaintiffs suffered mental harm when their relative died in a house fire due defective fire alarm. Both had pre-existing psychological conditions requiring treatment, but the incident caused worsening of depression and anxiety symptoms.	31% and 27%	\$187,500 and \$72,000

Queensland

Procedural rules and key dates

A comprehensive pre-litigation procedure for personal injury claims is set out in the *Personal Injuries Proceedings Act 2002* (Qld) (**PIPA**). Civil claims for damages, including whether there has been a breach of duty and certain restrictions on recoverable damages, are governed by the *Civil Liability Act 2003* (Qld) (**CLA**).

Complying with PIPA is compulsory before commencing litigated proceedings for personal injury claims in Queensland, with some limited exceptions. The purpose of PIPA is to promote the early resolution of claims without the need to proceed to litigation.

PIPA provides the following key steps and timeframes:

Section 9

A claimant must serve a Part 1 Notice of Claim (**Notice**) within 9 months of the injury or 1 month after first consulting a lawyer. A Notice can be served outside this time with a reasonable excuse for delay. Delay is not difficult for the claimant to overcome, absent prejudice to the respondent.

Sections 10 and 11

A respondent must confirm whether or not it is a proper respondent and identify any other parties that are proper respondents within 1 month of receiving the Notice.

Acknowledgement by a respondent that it is a proper respondent is not an admission of liability, only that it is the correct party to sue.

Sections 16 and 17

Any contribution / indemnity claim from a respondent is to be served by the later of 3 months of receipt of a complying Notice or 7 days after a respondent identifies someone else as a contributor.

Contributors who are served with a contribution notice are to provide their response within 1 month after receiving a contribution notice.

Section 20

A respondent must provide written notice to the claimant stating whether liability is admitted or denied within 6 months of receiving a compliant Notice.

Sections 22 and 27

The parties must make full disclosure of all documents “*about the circumstances of, or reasons for, the incident*” or relevant to the claimant’s injuries and loss.

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The underlying fundamental principle of damages assessment remains: damages are assessed to place the claimant in the position they would have been but for the harm suffered.

Regarding disclosure required under PIPA, legal professional privilege is abrogated for certain classes of documents including investigation and medical reports (section 30(2), PIPA). They must be disclosed even if privileged. Evidence suggestive of fraud can also be withheld, but only after applying to the court *ex parte* for an order (section 30(3), PIPA).

Sections 36 and 39

Before litigation is commenced the parties must participate in a compulsory settlement conference. Any party may call a compulsory conference at an agreed time and place.

If the claim does not resolve under PIPA, each party must make a mandatory final offer (**MFO**), which must be considered by the court in respect of costs if the party achieves an outcome at trial better than its MFO.

If a claim fails to settle during the pre-litigation process, the claimant must file proceedings within 60 days after the conclusion of the compulsory conference. The *Uniform Civil Procedure Rules 1999* (Qld) (**UCPR**) will then apply to the proceeding.

When does PIPA not apply?

PIPA does not apply to:

- personal injury within the meaning of the *Motor Accident Insurance Act 1994* and in relation to which that Act applies;
- injury within the meaning of the *Workers Compensation and Rehabilitation Act 2003* (Qld) (**WCRA**) and in relation to which that Act applies (ie. where the respondent to the claim is the claimant's employer); or
- dust diseases.

Civil Liability Act

The CLA essentially codified the common law as it related to negligence. It introduced defences of obvious risk, inherent risk and risks of dangerous recreational activities, but these have rarely been upheld by the courts. A defence of voluntary assumption of risk has been maintained in the CLA.

The CLA also reverses the onus of proof regarding breach of duty in institutional abuse cases (ie. once the claimant proves the abuse took place). The institution must prove it took all reasonable steps to prevent the abuse (sections 33D and 33E, CLA).

Property damage and other non-injury claims

Claims for property damage and economic loss are governed by the CLA and can be litigated pursuant to the UCPR without any pre-court process.

The CLA enshrined a system of proportionate liability for these claims which does not apply to personal injury claims (liability remains joint and several for personal injury).

Limitation periods

Claims for personal injury cannot be brought after three years from the date on which the cause of action arose (section 11, *Limitation of Actions Act 1974* (Qld) (**LAA**)). The date the cause of action arose will usually be obvious – the date the injury occurred – but for latent injuries or those occurring over a period of time, the cause of action will usually arise on the date the claimant first experienced symptoms or sought medical treatment.

The claimant can obtain an extension of the limitation period if they identify a 'material fact of a decisive character' in relation to their cause of action (section 31, LAA). In that case, they have 12 months from when that fact came to their knowledge to commence proceedings.

Dust disease and sexual abuse claims

Claims relating to dust disease have no limitation period (section 11(2), LAA).

Claims relating to sexual abuse of a child have no limitation period (section 11A, LAA). The court can still order a permanent stay on a claim if the effect of the lapsed time on the respondent is so burdensome that a fair trial is not possible.

Limitation under PIPA

It is not uncommon for a claimant to commence a PIPA claim immediately prior to the expiry of their three year limitation period. If this occurs, a claimant can obtain:

1. an extension of their limitation period (section 59, LAA), or
2. leave to proceed despite non-compliance with PIPA, with proceedings then stayed until PIPA is complied with (section 43, LAA).

A court order is required in either case, however respondents will typically consent in the absence of prejudice to avoid unnecessary costs.

Assessment of damages

There are several statutory restrictions and rules regarding the assessment of damages for personal injury claims in Queensland.

However, the underlying fundamental principle of damages assessment remains: damages are assessed to place the claimant in the position they would have been but for the harm suffered.

Heads of damages

General Damages (pain and suffering)

Queensland has no threshold for general damages.

Damages are assessed by assigning an 'Injury Scale Value' of 0-100 to the claimant's dominant injury, together with any uplift justified by additional injuries sustained: *Civil Liability Indexation Notice 2024* (Qld). The final ISV equates to an indexed sum of money (the current maximum as at 1 July 2024 is \$456,950).

If the WCRA applies to a claim – ie. if the claimant's employer is also a respondent to the claim – the CLA and restrictions on general damages will not apply to non-employer defendants. General damages are assessed at common law based on prior similar decisions of the courts and are typically 20%-100% higher, though the difference varies significantly depending on injury type and severity.

Past and future special damages

These are direct expenses for treatment, rehabilitation and medication.

Past expenses are assessed by reference to evidence of expenses (receipts, and charge notices from Medicare Australia, WorkCover Queensland and private health insurers).

Future expenses are assessed by reference to medicolegal expert recommendations.

Past and future economic loss

This loss relates to direct and anticipated loss of earnings from employment due to the injuries sustained.

Past loss is evidenced through tax returns and payslips, by comparing earnings pre and post-injury and ensuring any reduction in earnings is supported by medical evidence regarding the effect of the injuries sustained.

Future loss is evidenced by either:

- a calculation of mathematically calculable future lost earnings (ie. the claimant has and will continue to lose a fixed sum per week due to their injuries); or
- a global allowance based on the general diminution of the claimant's earning capacity anticipated in the future based on the nature of the claimant's employment, their age and the anticipated effects of the injury as supported by the medico-legal expert evidence or other treating medical evidence.

Damages will also include interest on past and future loss of superannuation (presently 10.5%-11.5% on past and 11%-12% on future).

Past and future gratuitous or paid commercial care and assistance

Section 59 of the CLA applies a threshold for gratuitous care claims: the claimant must have experienced a need for care and assistance related to their injury of at least 6 hours/week for more than 6 months to recover any damages for care.

Once the threshold is met, all care requirements supported by the medico-legal evidence are recoverable.

If the WCRA applies to a claim (ie. if the claimant's employer is also a respondent to the claim) the CLA and restrictions on care will not apply to non-employer respondents. Care will be recovered 'from the ground up'.

The section 59 threshold does not technically apply to claims for paid commercial care and assistance, but the courts have been disinclined to make substantial commercial care awards – past or future – without substantial evidence of past paid care being incurred by the claimant prior to trial. That might differ for a claimant who had no access to friends or family for assistance.

Gratuitous care is typically compensated at between \$30-\$40/hour. Paid commercial care and assistance is based on the evidence in a particular claim but is typically higher at between \$45-\$75/hour depending on the nature of the assistance.

Interest

Interest is not recoverable on general damages or gratuitous services provided to the claimant (section 60, CLA).

Fox v Wood damages

Recoverable where WorkCover Queensland has paid tax to the ATO on behalf of the claimant during the statutory workers' compensation claim. Those tax amounts are refundable to WorkCover if the claimant succeeds in their claim against the employer or a non-employer respondent, so they are recoverable in the claim.

Exemplary, punitive or aggravated damages

These damages cannot be awarded in a claim for personal injuries (section 52, CLA). That restriction does not apply to:

- intentional torts and unlawful sexual assault (section 52(2), CLA;) or
- dust disease claims (the entire CLA is excluded by section 5(1)(c)).

Injured workers

The WCRA establishes the workers' compensation scheme for Queensland providing benefits for workers who sustain injury during the course of their employment including for dependants if a worker's injury results in death.

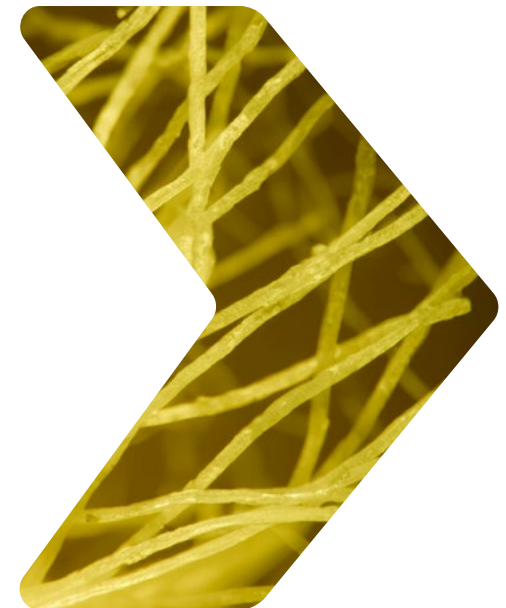
Statutory claim

If a worker sustains an injury at work, they are entitled to lodge a statutory ('no fault') claim with WorkCover Queensland for the payment of statutory benefits.

WorkCover will make payment of hospital, medical, rehabilitation and travel expenses and weekly benefits for lost wages (supported by ongoing certification from treating or independent medical providers).

WorkCover has a statutory right to:

3. recover benefits paid if the injured worker receives damages for the injury from the employer or another entity (ie. a negligence claim) (section 207B, WCRA). These benefits will form a part of the claimant's recoverable damages in any successful negligence action, and so will not be the subject of a separate recovery action against a PIPA respondent;
4. recover benefits paid directly from a party liable for the injury, if the claimant elects to not pursue a damages claim against that party by way of subrogation (section 207B(8), WCRA). Anecdotally, WorkCover rarely if ever exercises that right (likely because claimants almost always sue any potentially liable party themselves).



Common law claim

If an injured worker sues both their employer and a non-employer respondent for the same incident, apportionment of liability occurs in the usual way at law based on the respondents' respective fault.

However, if an injured worker sues a non-employer and elects not to sue their employer, the non-employer respondent is prevented from joining the employer as a contributor or third party (section 237, WCRA and *Bonser v Melnacs* [2000] QCA 13).

The CLA is excluded from operation in relation to an injury subject to the WCRA (ie. an injury sustained at work) (section 5, CLA). The exclusion of the CLA results in all damages being assessed against non-employer respondents at common, without the restrictions contained in the CLA (see 'Assessment of Damages' above).

Other notes

Present value of future losses

Future losses are usually calculated at a weekly rate and then discounted for present value of the future loss by using the 5% table of multipliers. This generally applies to future special damages, future economic loss, future care, and any other compensation for future losses.

Vicissitudes of life/contingencies

Future economic loss and care are typically discounted by a minimum of 15% for contingencies or the vicissitudes of life. This is a recognition by the court that some other factor in the future could have prevented the claimant from earning an income or rendered the claimant in need of gratuitous care and assistance even if the subject injury had not occurred

(ie. the claimant might have contracted a disease or some other injury that would have stopped them working or rendered them infirm).

The rate of discount may vary based on the claimant's personal circumstances (ie. a prior degenerative medical condition) and the nature of the loss being compensated.

This is to offset the benefit the claimant could obtain by investing the lump sum amounts now and earning interest on the money before they actually require the amounts to pay for treatment or care, or to use as weekly income.

Recent cases at a glance

Case	Plaintiff details	Cause of action	Injuries	General damages	Total damages
<i>Forostenko v Springfree Trampoline Australia Pty Ltd</i> [2024] QSC 1 (24 June 2024)	Male, 48	Public liability Australian Consumer ACL claim	Fifth metatarsal fracture (foot fracture) & secondary psychological injury – The Plaintiff injured his right foot whilst jumping on a Springfree trampoline. ISV of 12 assessed (allowing an uplift for the secondary psychiatric injury).	\$20,270	\$744,175
<i>Ruvuta v Jaderberg & Anor</i> [2024] QDC 107	Male, 26	Motor Vehicle Accident (CTP)	Right knee meniscal tear and surgical scarring (and other minor injuries to elbow, wrists, ankle and hip that have resolved) – The Plaintiff was struck by a vehicle whilst riding his bike. ISV of 7 assessed (no allowance for uplift).	\$11,600	\$124,456.89
<i>Carey-Schofield v Hays & Civeo</i> [2024] QSC 60	Male, 45	Workplace Liability	Elbow (comminuted fracture of the distal left radius) – The Plaintiff tripped over a garbage bag at host employer's accommodation village after being startled by a wasp. ISV of 20 assessed (allowing uplift for psychiatric injury).	\$37,950 (against employer) \$70,000 (against non-employer defendant)	\$503,595.51 (against employer) \$873,014.08 (against non-employer)
<i>Sawyer v Steeplechase Pty Ltd</i> [2024] QSC 142	Male, 34	Workplace Liability	Lumbar Spine – Plaintiff injured during the course of his employment as a concreter carrying steel mesh sheets at a residential renovation project. ISV of 19 assessed (including 25% uplift for psychiatric injury)	\$34,030 (against employer) Plaintiff not successful as against non-employer. GD's assessed at \$80,000.	\$781,082.09
<i>Wilson v Gold Coast Hospital and Health Service</i> [2023] QSC 135	Female, 47	Workplace Liability	Back injury and secondary psychiatric injury – Plaintiff injured during the course of her employment as a registered nurse when attempting to restrain a patient. ISV of 20 assessed (allowing uplift for psychiatric injury)	\$25,150	\$1,634,418.55
<i>Dearden v Ryan</i> [2022] QSC 111	Male, 24	Occupier's Liability	Right shoulder, burns and scarring – Plaintiff suffered severe burns to his upper body and limbs when he attended a friend's birthday party when another guest (third party) deliberately poured petrol on his clothing while he slept and then set it alight. Crow J apportioned 70% of liability to third party ISV of 38 assessed (allowing 25% uplift).	\$95,670	\$600,797.55

South Australia

Procedural rules and key dates

The *Uniform Civil Rules 2020 (SA)* apply to all actions issued in the Supreme, District and Magistrates Court.

The Rules require parties to attempt to resolve disputes before the commencement of litigation and often involve insurers at an early stage.

The key pre-action steps are set out below.

The Rules require claimants to give early notice of personal injury claims. A claimant must within 6 months of the day on which the incident occurred (or within one month after becoming aware that the injury was caused by the negligence of a person), serve a potentially liable person with a written notice of injury that identifies the injured person's details, circumstances of the injury, why the person is potentially liable and identifying medical records required.

A recipient of an early notice of injury must, within 6 weeks, serve a written response:

- setting out the recipient's address for pre-action service;
- providing a copy of any requested medical records in their possession, custody or power;
- setting out suggestions for next steps (for example, further investigation, obtaining expert evidence, negotiation, alternative dispute resolution or an invitation to institute a proceeding).

Prior to issuing proceedings (subject to limited exceptions), a claimant must serve on the proposed respondent a pre-action claim (akin to a formulated claim) that complies with Rule 61.7. This written notice must, amongst other things:

- identify each proposed cause of action in sufficient detail to enable the proposed respondent to decide whether and to what extent to admit the claim, to respond to the claim and to respond to the offer;
- attach a copy of any relevant expert report in the claimant's possession, custody or power;
- make an offer to settle the claim in terms capable of giving rise to a legally binding agreement if accepted;
- propose a date and time for a pre-action meeting at which parties participate in settlement discussions.

Within 30 days of receiving a pre-action claim, the proposed respondent must serve on the claimant a pre-action response, which:

- accepts or rejects the injured person's offer;
- as far as reasonably practicable, responds to each identified cause of action;
- provides sufficient detail to enable the claimant to decide whether, and to what extent, to pursue the claim and to respond to the respondent's offer; attaches sufficient material (including expert reports and medical records held by the respondent) as is necessary for the injured person to respond to the respondent's offer; and
- confirms the suitability of the pre-action meeting details.

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A claimant must within 6 months of the day on which the incident occurred (or within one month after becoming aware that the injury was caused by the negligence of a person), serve a potentially liable person with a written notice of injury that identifies the injured person's details, circumstances of the injury, why the person is potentially liable and identifying medical records required.

A pre-action meeting (settlement negotiation) is to be held within 21 days after the time for service of the last pre-action document (or as agreed by the parties).

Absent agreement, the meeting is to be face to face, however the parties can agree to have a telephone meeting or video meeting. The parties are to negotiate in good faith, identify the main issues in dispute and primary cause of disagreement and how the issues may be resolved without recourse to litigation.

The Rules provide cost consequences for non-compliance with the pre-action steps, including the applicant not being entitled to recover the costs of preparing, filing or serving the Claim.

The applicant must certify on the Claim whether the pre-action steps have been complied with. If there is non-compliance with pre-action steps (by either party), a special directions hearing will be listed by the Court at which time the Court may make such orders as it sees fit including ordering that any pre-action step or steps in lieu be taken, staying other steps in the proceeding, making orders for ordinary steps in the proceeding to be taken or making orders for costs. The usual rule is that the party in default pays the costs of the other parties' attendance at the special directions hearing and costs thrown away by reason of the default on an indemnity basis forthwith.

The Courts have further discretion to take non-compliance into consideration when making cost orders after the final determination of the matter.

Limitation periods

The *Limitation of Actions Act 1936 (SA)* provides that actions in respect of personal injury must be commenced within 3 years of the cause of action accruing.

If the injury remains latent for some time after its cause, the 3-year time period begins to run when the person becomes aware of the injury.

The courts have the discretion to extend that limitation period when:

- the action is commenced within 12 months of the applicant ascertaining previously unknown "*facts material*" to his or her case; or
- the failure to commence the action within time was due to the respondent's representations or conduct; and
- the court is satisfied that in all the circumstances of the case it is "just" to grant the extension of time.

There is no limitation period for an action for damages relating to personal injury resulting from the abuse of a person when the person was a child.

Assessment of Damages

General damages

Damages for non-economic loss may only be awarded if:

- the injured person's ability to lead a normal life was significantly impaired by the injury for a period of at least seven days; or
- medical expenses of at least the prescribed minimum (\$5,120 as at September 2024) have been reasonably incurred in connection with the injury.

Damages are assessed by assigning a numerical value between 0 – 60 to the injury depending on its type, nature and severity. The numerical value equates to an indexed sum of money based on the year in which the injury was sustained.

The maximum amount of damages that can be awarded for an injury occurring in 2025 (injury worth 60 points) is \$435,700.

Economic loss

An award of damages for past and future economic loss involves an assessment of what the injured person would have earned but for the accident. Damages can be calculated by way of a mathematical calculation (based on net weekly loss) or on a more global basis considering an injured person's work skills and earnings history, tax returns, payslips and workers compensation records (where relevant).

Section 54 of the *Civil Liability Act 1936 (SA) (CLA)* provides that no damages are payable for the first week of incapacity.

Where future economic loss is calculated by reference to a net weekly loss, it is discounted for present value by using a multiplier with a discount rate of 5% before a further adjustment for contingencies (usually 15%) depending on the personal circumstances of the injured person.

Damages are not to exceed the prescribed maximum (\$4,096,650 as at September 2024).

Superannuation

Awards for past loss of superannuation are based on the relevant superannuation guarantee rate at the time of the loss:

Pre 30 June 2021	9.5%
1 July 2021 – 30 June 2022	10%
1 July 2022 – 30 June 2023	10.5%

1 July 2023 – 30 June 2024	11%
1 July 2024 – 30 June 2025	11.5%

Future loss of superannuation is commonly assessed at 12%, being the superannuation guarantee rate from 1 July 2025.

Past and future gratuitous and paid care

Awards of damages for gratuitous care or paid care are based on services that are reasonably required by the injured person, usually based on expert medical opinion.

Section 58 of the CLA limits an award of damages for gratuitous care to those services provided by a parent, spouse, domestic partner or child of the injured person.

Damages for gratuitous services are not to exceed an amount that is four times the state average weekly earnings (currently \$7,428 (4 x \$1,857)).

Paid care is assessed based on what services are reasonably required having regard to the expert medical evidence and is allowed on commercial rates.

The decision of *Amaca Pty Ltd v Werfel* [2020] SASCFC 125 limits the services that are considered compensable to those provided for the benefit of the injured person and not those provided for the benefit of the household.

Medical expenses

Damages for past and future medical expenses are awarded on the basis of the necessity or reasonableness of the medical, rehabilitation and pharmaceutical expenses having regard to expert medical opinion.

Amounts paid by Medicare are recoverable from settlement sums or judgments over \$5,000. A private health insurer may also seek reimbursement of amounts it has paid for treatment.

Consortium

Other than in the case of catastrophic injuries, damages in the amount of \$5,000 – \$10,000 are commonly allowed for the loss or impairment of consortium suffered by a spouse or domestic partner of the injured person.

However, subject to the appeal, we note that the recent judgment of *Raccanello v MAC* [2023] SADC 84 allowed \$50,000 for loss of consortium where the applicant suffered significant injuries.

Solatium

Damages payable for solatium for the suffering caused to the spouse or domestic partner of a deceased are capped at \$10,000.

Interest

No interest is payable on non-economic loss.

Other notes

No amounts are payable for the costs of investment or management of damages.

Injured workers

The *Return to Work Act 2014* (SA) (**RTWA**) establishes the workers' compensation scheme for SA providing benefits for workers who sustain injury during the course of their employment including for dependents if a worker's injury results in death.

Statutory claims for a workplace accident

If a worker sustains a workplace injury in SA, they are entitled to lodge a claim for compensation through Return to Work SA (or, in the case of an exempt employer, their employer). The injury must arise from employment that is connected with SA.

The RTWA differentiates between injured workers and 'seriously injured workers' (being a worker who has been assessed as having a permanent whole person impairment (**WPI**) of at least 35% for physical injuries and 30% for psychiatric injuries).

An injured worker (not a 'seriously injured worker') is entitled to income maintenance for only 2 calendar years from the date of first entitlement to weekly payments. For the first 52 weeks the worker is entitled to 100% of the difference between their average weekly earnings rate and the amount earned, if any, and for the next 52 weeks 80%.

After 2 years, a 'seriously injured worker' is entitled to 80% of the difference between their average weekly earnings and any earnings, until retirement age or they can elect to receive a once-off lump sum payment for economic loss instead of ongoing weekly payments (known as a redemption).

A worker's entitlement to medical and like expenses ends one year after returning to work or one year after ceasing to receive weekly payments of compensation. This limit does not apply to 'seriously injured' workers.

Effects of RTWA

Return to Work SA has a statutory first charge on any compensation payable to the worker by another entity ('the wrongdoer').

The RTWA prohibits workers from suing their actual employer except where the worker is 'seriously injured'. An action brought by a 'seriously injured' worker against their employer is limited to damages for economic loss only. There may be little incentive for a 'seriously injured' worker to sue an employer for economic loss damages because the worker can remain on weekly compensation payments set at 80% of their pre-injury earnings until retirement, or choose to redeem those payments for a lump sum. If the worker elects to sue his or her employer at common law, those weekly payment entitlements are terminated on receipt of any award of economic loss damages.

Accordingly, Return to Work SA recoveries are often pursued at the same time as the worker brings a common law damages claim against a non-employer respondent.

In cases where the worker sues a non-employer respondent at common law, there are statutory restrictions imposed on the non-employer respondent (wrongdoer) pursuing contribution from the employer.



Recent cases at a glance

Case	Plaintiff details	Cause of action	Injuries	NEL Award	Total general damages awarded
<i>Clutterbuck v Pollifrone</i> [2021] SADC 15	Female, 52	Negligence	Knee and psychiatric – the plaintiff was visiting the respondent’s farm and was injured when conveyor belts fell from the forklift the respondent was using and pinned her to the ground. The plaintiff experienced symptoms consistent with complex regional pain syndrome. She reported suffering from depression, anxiety, agoraphobia and cognitive impairment.	\$48,354.50	
<i>Amaca Pty Ltd v Werfel</i> [2020] SASCF 125	Male, 44	Negligence (dust disease)	Plaintiff diagnosed with a rare form of testicular mesothelioma diagnosed at age 40. Plaintiff alleged to have been exposed to asbestos from products manufactured by James Hardie while employed as a fencing contractor retained by the South Australian Housing Trust between 1994 and 1997 and again while undertaking home renovations in 2000, 2001 and 2004.	\$280,000	
Country Lions Club [2020] SADC 162 (P2’s determination) <i>Battunga Country Lions Club v Paues</i> [2021] SASCA 72 (P1’s appealed determination)	P1 – Male, 36 P2 – Female, 33	Occupiers’ liability	Upper extremity, neck back and knee – the plaintiffs were husband and wife spectators at a go-kart race and were hit by an out-of-control go-kart that broke through the bunting at the edge of the track. The first plaintiff sustained a right knee injury. The second plaintiff sustained upper extremity (shoulder, elbow, wrist hand and thumb), neck, back and right knee injuries.	P1 \$40,580 P2 \$21,850	
<i>Sloan v Service Stream Limited</i> [2020] SADC 98	Male, 48	Negligence	Lower back and psychiatric – the plaintiff was employed by a labour hire company and undertook pit and pipe work associated with the installation of the NBN. The defendant attempted to lift a P9 pit when he sustained a back injury. He had a significant pre-existing back condition.	\$13,770	
<i>Corso v Arias Holdings Pty Ltd & Ors</i> [2016] SADC 62	Female, 36	Negligence	Nerve damage, scarring, disfigurement, psychiatric – the plaintiff underwent tattoo removal treatment with a paste that caused up to third degree burns on her ankle and back	\$74,430	

Tasmania

Procedural rules and key dates

Civil procedure in Tasmania is governed by the *Supreme Court Rules 2000* (Tas) and the *Magistrates Court (Civil Division) Rules 1998* (Tas), which contain similar procedural rules and provide timeframes to respond to civil actions. The following paragraphs focus on the *Supreme Court Rules 2000* (Tas).

An action is commenced by the filing of a Writ in the registry which is to be served on the defendant(s) to the proceeding within 6 months after the filing of the Writ.

On application by the plaintiff made whilst the Writ is valid, a court may order that the original Writ and any concurrent Writ be renewed for a period the court deems fit if the defendant has not been served with the Writ.

A defendant must file a notice of appearance within 7 days of being served with the Writ.

A defendant has 21 days after the latter of the service of a statement of claim or the time limited for filing a notice of appearance to file a defence.

In an action for damages for personal injuries, the plaintiff is to advise the defendant(s) in writing within 50 days after the close of pleadings or otherwise agreed or ordered:

- the nature of the injuries
- any secondary illnesses
- the name of each hospital and medical practitioner attended as a result of the injuries

- expenses incurred due to the injuries
- the nature of employment or self-employment that the plaintiff would have been engaged in or was likely to have been engaged in but for the injuries
- estimated gross annual income, and
- whether the claim is that the injuries totally or partially impacted the plaintiff's earning capacity.

During the course of the proceeding the court may refer the parties to mediation in an attempt to seek to resolve the dispute. If the matter does not resolve at mediation the plaintiff must give a report to the court outlining that the mediation occurred and setting out the issues left to be determined.

Before trial, the parties must file a certificate of readiness with the court. The parties must specify that they have attended a compulsory conference including attempting to reach agreement on as many issues in dispute as possible and discussing the possibility of settlement of the action.

An offer of compromise is to be open for a period no less than 14 days.

A plaintiff is entitled to a costs order against a defendant taxed on a solicitor-client basis if, the plaintiff made an offer of compromise which was not accepted by the defendant at the time of judgment, and the judgment is no less favourable to the plaintiff than the terms of the offer.

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In assessing damages for non-economic loss, a court may refer to previous decisions of that court or other Australian courts to establish the appropriate amount to be awarded.

Limitation periods

The *Limitations Act 1974* (Tas) provides that actions in respect of personal injury must be commenced within three years of the date of discoverability.

The courts have discretion to extend that limitation period to 6 years from the date of discoverability when it is just and reasonable to do so.

There is no limitation period for an action for damages relating to personal injury arising from or related to the sexual abuse or serious physical abuse of the person when the person was a minor.

Actions may be brought against previously settled causes of action arising from or related to the sexual abuse or serious physical abuse of a minor if a court decides it is in the interests of justice to set aside the settlement agreement.

A court may consider any amount paid under a previous agreement even if the previous agreement is found to be wholly or partly void, if it is satisfied that it is just and reasonable to do so when awarding damages in a hearing of an action on a previously settled cause of action arising from or related to the sexual abuse or serious physical abuse of a minor.

Assessment of damages

General damages

An annual government gazette sets out indexed amounts for non-economic loss under the *Civil Liability Act 2002* (Tas) (**CLA**).

In calculating general damages, the CLA refers to an Amount A and an Amount B. As of 1 July 2024, Amount A is \$7,000 and Amount B is \$35,000, which is five times Amount A.

If the assessed amount of non-economic loss is less than Amount A, then no damages will be awarded for non-economic loss.

If the assessed amount of non-economic loss is between Amount A and Amount B, Amount A is subtracted from the assessed amount and the result is then multiplied by 1.25.

If the assessed amount of non-economic loss is more than Amount B, then the damages awarded equals the assessed amount.

In assessing damages for non-economic loss, a court may refer to previous decisions of that court or other Australian courts to establish the appropriate amount to be awarded.

Pre-judgment interest was introduced in 2019 by way of amendment to the *Supreme Court Civil Procedure Act 1932* (Tas). The amendment allows the court, when making a judgment requiring the payment of an amount of money, to order that the amount, or part of the amount, carries interest from the day after the cause of action arose and ending on the day on which judgment is entered. The interest rate from 1 July 2024 is 8.10%.

Gratuitous care

The CLA provides that a person may not recover damages for gratuitous services unless the services have or will likely be provided to the injured person for more than six hours per week and for more than 6 consecutive months.

In calculating damages for gratuitous services:

- the hourly rate is not to exceed one fortieth of adult average weekly earnings, and
- the weekly rate is not to exceed adult average weekly earnings.

An individual who was providing gratuitous services to another person prior to injury can claim for the loss of capacity to provide those services, providing that before the loss of capacity occurred:

- the person was providing the services to the other person for more than 6 hours per week and for more than 6 consecutive months and it was necessary for the services to be provided to the person; or
- the other person was an unborn child of the person before the injury occurred.

Economic loss

Damages for economic loss – i.e. loss of earning capacity/income are governed under the CLA.

Relevantly, section 26 of the CLA provides that a court must not award damages for loss of earning capacity that exceeds 3 x average weekly earnings of an adult, as last published by the Australian Bureau of Statistics before damages are awarded.

Damages for loss of superannuation entitlements is also restricted by section 25 of the CLA which limits loss to the “relevant percentage” of damages payable for the deprivation or impairment of the earning capacity on which the entitlement to contributions is based. Relevant percentage is defined in the CLA to be the percentage of earnings that is the minimum percentage required by law to be paid by the person’s employer as contribution to the person’s superannuation.

In cases involving consequential mental harm, section 35 of the CLA provides that a court cannot award damages for economic loss resulting from a breach of duty, unless the harm consists of a recognised psychiatric illness.

Injured workers

The *Workers Rehabilitation and Compensation Act 1988* (Tas) (**WRCA**) establishes the workers’ compensation scheme for Tasmania which provides benefits to workers who sustain injury during the course of their employment including for dependents if a worker’s injury results in death.

Statutory claims for a workplace accident

A worker is entitled to pursue a claim for compensation if he or she suffered an injury in the course of employment or contracted a disease which his or her employment contributed a substantial degree to.

If the injury to the worker resulted in death, an employer may be liable to pay compensation to the worker’s dependents who, at the date of death, would have been the worker’s dependents but for the injury.

An injury does not arise from a worker’s employment merely because it occurs whilst the worker is travelling between his or her residence and the place of employment unless that journey occurred at the request or direction of the employer.

Compensation claims are not payable for illnesses of the mind arising from demotions, workplace discipline and failure to award promotions.

There are certain presumptions in the WRCA including, for example, a provision that where a state or government worker suffers post-traumatic stress disorder, the worker’s employment is taken to have contributed a substantial degree to that injury in the absence of contrary evidence.

The injured worker must give notice of the injury to his or her employer as soon as practicable after the injury occurs and must make a claim for compensation within 6 months after the injury. There are exemptions to that requirement for certain conditions including, for example, the suffering of silicosis, dermatitis or lead poisoning by a mining employee.

Once notified of an injury, an employer must inform the worker within 14 days that the worker may have a right to a claim for compensation in relation to the injury.

If an employer receives a claim for compensation from a worker, then the employer or the employer’s insurer must, within 28 days: notify the worker as to whether liability for the injury is accepted, and if no decision is made to accept or dispute liability for the injury, the employer or employer’s insurer must specify the reasons why a decision has not been made and the steps to be taken to reach a decision.

If a worker is totally incapacitated, and that incapacity is supported by a certificate of a medical practitioner, their weekly payments of compensation are equal to the greater of:

- the worker’s normal weekly earnings;
- the ordinary time rate of pay of the worker for the work and hours during which the worker was engaged immediately before the incapacity. This is made up of weekly payments for the period of incapacity which equals the difference between the worker’s normal weekly payments and the amount that the worker is earning or would be able to earn in suitable employment during the period of incapacity.

The weekly payments are payable as follows:

- 100% of the weekly payment for the first 26 weeks post-incapacity;
- 90% of the weekly payment for weeks 27–78 post-incapacity, and
- 80% of the weekly payment for week 79 post-incapacity but not exceeding nine years from the date of incapacity if the worker's impairment is less than 15% whole person impairment, with further increases to the proposed duration of compensation payments depending on the whole person impairment assessment.

A worker who suffers permanent impairment assessed at less than 5% (save for the loss of a finger or toe in part or in whole) is not entitled to compensation for permanent impairment.

A worker deemed to have suffered permanent impairment between 5-70% is entitled to compensation in accordance with the following formula: $\{18 + [6.1 \times (WPI - 5)]\} \times BS$

WPI is the percentage of whole person impairment and BS is the basic salary.

The above formula also applies to permanent psychiatric impairment assessed between 10 – 70%.

A worker who suffers a WPI of 20% or higher for an injury that occurred on or after 1 July 2010 may be entitled to pursue common law damages.

Effects of WRCA

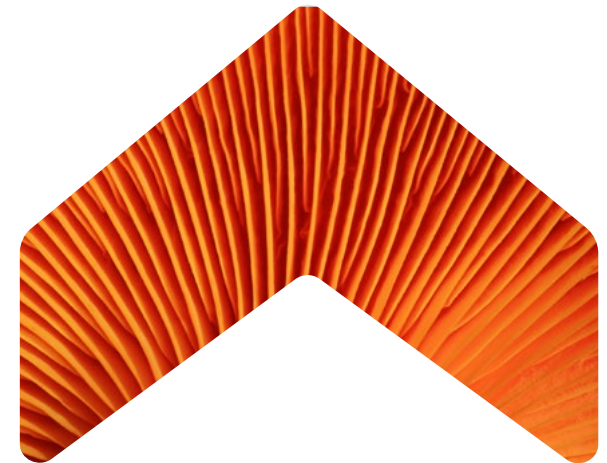
A worker's outstanding entitlement to compensation under the WRCA may only be settled by entering into a settlement agreement pursuant to which the worker agrees that all further claims to compensation are extinguished.

If a worker enters into a settlement agreement in relation to all outstanding entitlements to compensation within 2 years of the date the claim was made, the agreement must be approved by the Tribunal, taking into account factors including whether all reasonable steps have been taken to rehabilitate or retrain the worker and whether the worker has returned to work. A settlement agreement entered into after 2 years since the claim was made do not have to be approved by the Tribunal but may be referred to the Tribunal for review.

The payment of or entitlement to the payment of compensation in relation to an injury does not impact a worker's right to obtain damages in respect of that injury. However, where a liability has been incurred by an employer or other individual for the payment of damages to the worker, the payment of compensation shall be regarded as payment towards the discharge of that liability and will be set off against the amount of damages awarded.

If a worker's injury arises, in part, due to his or her own fault, the amount recoverable by the employer by way of indemnity or contribution is reduced to an extent that the Supreme Court of Tasmania considers just and equitable having regard to the degree of responsibility the worker had for the injury.

In circumstances where the injury to the worker creates a liability in a person other than the employer, the employer may seek to pursue indemnity or contribution from that other person in respect to the compensation paid to the injured worker.



Recent cases at a glance

Case	Plaintiff details	Cause of action	Injuries	Total General Damages Awarded
<i>Carleton v National Spiritual Assembly of the Baha'is of Australia Inc</i> [2025] TASSC 11	Female, 59	Negligence	Physical injuries to right arm and hip, left side of her neck all the way down to her shoulder blade – the plaintiff fell from a single step leading from the side of a stage while attending a work conference. The step was not fixed to the floor or the stage.	\$90,000
<i>Garling v Patiniotis</i> [2024] TASSC	Female, 58	Medical Negligence	Negligent performance of a stapled haemorrhoidectomy causing pain and affecting the operation of her bowels and gastrointestinal system.	\$75,000
<i>Munting v Pollard</i> [2024] TASSC 30	Female, 42	Negligence and battery	Psychiatric injuries (complex PTSD) – the plaintiff was sexually abused by a teacher at her school from age 15 for approximately 1 year.	\$275,000 including aggravated and exemplary damages (plus interest of \$34,375)
<i>Steen v Trustees of the Diocese of Tasmania</i> [2024] TASSC 3	Male, 53	Negligence	Psychological injuries – plaintiff sexually abused from age 10 to 16.	\$275,000 plus exemplary and aggravated damages (plus interest of \$126,160)
<i>Scattergood v Commonwealth</i> [2022] TASSC 21	Female, 46	Negligence	Physical whiplash injuries and psychiatric injuries (adjustment disorder with depressed mood) – the plaintiff was injured in a motor vehicle accident with the injuries exacerbated in a subsequent “incident” involving the sudden braking of the car she was a passenger in.	\$100,000
<i>Dann v Port Sorell Bowls Club Inc</i> [2020] TASSC 47; <i>Port Sorrell Bowls Club v Dann</i> [2022] TASFC 2	Male, 44	Negligence	Burns to hand, depression, anxiety, alcohol use disorder – The plaintiff was burnt when he was cooking sausages on the bowling club barbecue when the mug that was being used to catch the fat from the barbecue overflowed and caught fire. When the plaintiff attempted to move the mug it got caught on a bracket and the fat spilt on his hand resulting in burns. There was a 15% reduction for contributory negligence.	\$80,000

Case	Plaintiff details	Cause of action	Injuries	General damages
<i>ZAB v ZWM</i> [2021] TASSC 64	Male 10-16 at the time of incident (alleged abuse) and aged over 40 at trial	Assault and battery – sexual abuse	PTSD, depression – The plaintiff was sexually assaulted by his father from when he was 10 to 16 years old.	\$300,000 (plus interest of \$67,500)
<i>Partridge v Hobart City Council</i> [2012] TASFC 3	Female, 40	Negligence	Back, knee and hand – plaintiff slipped on wet steps after leaving her solicitors' office. There was a 20% reduction for contributory negligence.	\$40,000
<i>Dodge v Snell</i> [2011] TASSC 19	Male, 41	Negligence	Collarbone, shoulder, ribs, punctured lung and adjustment disorder – plaintiff was injured in horse race due to the allegedly negligent riding of another jockey (the defendant) causing the plaintiff's horse to fall.	\$80,000
<i>Hall v Hall</i> [2014] TASSC 37	Male, 34	Negligence	Back, leg, neck and psychiatric – The plaintiff was in a vehicle being driven by his wife. As she attempted to overtake other vehicles, she lost control of the car which hit an embankment and rolled onto its roof.	\$45,000

Victoria

Claims in Victoria

In Victoria, most personal injury claims fall into one of two categories.

The first category is ‘general liability’ claims, which usually rely on common law causes of action, including for negligence, or breach of contract. General liability claims can involve injuries arising in public places, sports or recreational injuries and medical negligence. These claims are principally regulated by the *Wrongs Act 1958 (Vic)* (**the Wrongs Act**) in particular, Parts VB and VBA.

The second category is claims arising from injuries sustained in the course of employment, which are governed by the *Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)* (**the WIRC Act**).

General liability claims

General damages

A prominent part of most personal injury claims is the claim for general damages, also known as ‘pain and suffering’ damages.

To recover general damages in Victoria under the Wrongs Act, a claimant must usually establish that they have suffered a ‘significant injury’ caused by the alleged negligence of the respondent. A claimant can establish that they suffer a significant injury by meeting one of the following degree of whole person impairment (**WPI**) thresholds:

- 5% or more for spinal injuries
- more than 5% for physical injuries other than spinal injuries, or
- 10% or more for psychiatric injuries.

A claimant’s WPI is assessed by an approved medical practitioner. The medical practitioner must issue a certificate of assessment if they determine that the claimant’s injuries satisfy the applicable impairment threshold. The claimant must serve the certificate of assessment and associated documents on each respondent to their claim.

Referrals to a Medical Panel

Once served with a certificate of assessment, a respondent will usually only have 60 days to refer the claimant to a Medical Panel to determine whether the claimant’s injuries satisfy the relevant injury thresholds to claim general damages.

If there are multiple respondents to a claim, each respondent is entitled to make its own referral to a Medical Panel, notwithstanding that this might result in different outcomes.

If a respondent misses the time to make a referral to a Medical Panel, it will be deemed to have accepted that the injury is a “significant injury”, and is not entitled to rely upon another respondent’s referral, even if that referral determined that the claimant’s injury did not meet the threshold.

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Unlike some other jurisdictions, Victoria does not have any statutory guidance on how to assess general damages. Courts are, however, entitled (indeed required) to consider previous decisions as a guide when awarding general damages.

Other damages

It is important to note that the WPI threshold requirements only acts as a gateway to claim general damages. Other damages including economic loss, medical expenses and gratuitous/attendant care can be claimed without meeting the threshold.

Statutory caps – general damages and loss of earnings

The damages recoverable for general damages and loss of earnings are 'capped' under the Wrongs Act. The statutory caps are subject to indexation each financial year. The current caps are:

- general damages: \$741,000
- loss of earnings: \$4,392 (per week), being 3 times average weekly earnings for all Victorians of \$1,464.00.

This demonstrates a 12% increase over two years and 5 % on last years cap.

A 5% discount rate is also applied to the calculation of future damages, including loss of earnings.

Attendant and gratuitous care damages

Claimants can claim damages for attendant and/ or gratuitous care services where they are solely and reasonably required due to the claimed injury. Examples include nursing, domestic care and other assistance to alleviate the consequences of the claimed injury.

The Wrongs Act permits recovery of damages for gratuitous/attendant care services where it is required for more than 6 hours per week or for more than 6 months. If the care provided exceeds either threshold, damages can be awarded on the following basis:

- less than 40 hours per week – an hourly rate equivalent to 1/40 of the average weekly total earnings for all employees in Victoria (currently \$36.60 p/h), and
- more than 40 hours per week – the average weekly total earnings for all employees in Victoria (currently \$1,464 p/w or \$36.60 p/h).

A claimant may also be able to recover a sum referable to being unable to provide gratuitous care to another person, for instance, their spouse, child or grandchild.

A 5% discount rate applies to any claim for damages for future attendant/gratuitous care.

Proceedings and key dates

Claimants generally have three years from the date of 'discoverability' to commence proceedings. This is when the claimant knows the injury is serious enough to warrant proceedings and is able to identify the party they believe is at fault.

This limitation period is suspended from the date the claimant serves a certificate of assessment to when either the certificate is accepted by the respondent or when the Medical Panel process has concluded.

Claimants in personal injury proceedings are often granted extensions on the limitation period unless the defendant can establish material prejudice.

Most personal injury proceedings are brought in the County Court of Victoria, which has unlimited monetary jurisdiction, although the Supreme Court will hear more complex matters.

In the County Court, standard timetabling orders are set listing a trial either 10 months or 12 months from the date of the first administrative mention.

Both the Supreme and County Courts require parties to attend mediation before proceeding to trial. We recommend allowing reasonable time between mediation and trial where possible to allow time for negotiations to continue if a resolution is not achieved at mediation.

Workplace injury claims

Overview

The second category is claims arising from injuries sustained in the course of employment. Two classes of claims fit into this category:

- damages actions brought by seriously injured workers under ss 328/335 of the WIRC Act; and
- actions brought by the Victorian WorkCover Authority (**the VWA**) against negligent non-employer third parties to recover the compensation it has paid or may pay to or on behalf of a worker pursuant to s 369 claims under the WIRC Act.

As the VWA has its own entitlement to issue recovery proceedings, there are often two claims arising from the same event/injury being pursued at the same time – the worker’s serious injury action and the VWA’s recovery action.

Serious injury application process

To issue a damages action, a worker must first apply to their employer and the VWA and establish they have suffered a ‘serious injury’ in the course of their employment. A worker has a ‘serious injury’ if they:

- suffers a WPI of more than 30% as assessed by an independent medical examination, or
- satisfies the ‘narrative test’ of serious injury.

If the VWA determines that the narrative test is satisfied, it will issue a serious injury certificate on application from the worker to issue a damages action.

Most workers who can bring claims fall into the second category. There is a significant body of law around what constitutes a ‘serious injury’ for the purposes of the narrative test. Key indicators are: the impairment must be permanent, cause pain/impairment or loss of significant bodily function.

Workers must serve a copy of their serious injury application on potential respondents. Often, this is the first time a potential third party hears of a proposed action.

The VWA has 120 days to consider the worker’s application for the purposes of issuing a serious injury certificate.

It can award a serious injury certificate for general damages only, or for general damages and loss of earnings. To obtain a certificate for loss of earnings, a seriously injured worker must satisfy a further test of 40% permanent impairment of earning capacity to sue for pecuniary loss damage.

If the VWA refuses to grant a serious injury certificate, a worker can file an originating motion in the County Court seeking a review of the decision.

Statutory conference / offers

If the worker satisfies the serious injury threshold, they must participate in a pre-litigation case conference with the VWA as the employer’s statutory insurer.

After the conference, the VWA must make a settlement offer to the worker (known as a ‘statutory offer’). This offer can be \$nil. The worker then has 21 days to accept the VWA’s offer or make a counter-offer.

The worker’s counter-offer must remain open for 21 days. If it is not accepted, the worker has 30 days to issue proceedings.

A practice has developed where respondents are invited to the conference to explore early settlement and to participate in the statutory offer process. However, opportunities for early negotiations depend heavily on the attitude of the VWA’s solicitors representing the employer as the only prospective respondent formally involved in the process.

Damages and statutory caps

Subject to receiving a serious injury certificate, the damages entitlement for injured workers is limited to general damages and damages for loss of earnings. The applicable statutory thresholds (indexed annually – and as from 1 July 2024) are:

- general damages: minimum of \$73,000 and maximum of \$741,000, and
- loss of earnings: minimum of \$75,600 and maximum of \$1,702,010.

A 6% discount rate applies to the calculation of future damages, including economic loss.

A worker cannot claim other heads of damage. Usually they receive further no-fault statutory compensation from the VWA – which ultimately forms part of an associated recovery action commenced by the VWA in its own name. The VWA can fund medical and care expenses, rehabilitation/retraining and pay weekly compensation for loss of income (known as ‘weekly benefits’). A lump sum impairment benefit can also be awarded. Any common law damages are reduced by the weekly benefits and impairment benefit paid to avoid double recovery.

Proceedings

Workers generally have 6 years from the date of their injury to bring common law proceedings against the respondent they believe is at fault. This limitation period is suspended from the day:

- a worker lodges an impairment benefit claim, to either 30 days after the VWA determines the claim or notifies the worker of the Medical Panel's determination; and
- a worker lodges a serious injury application and ending upon common law proceedings being issued.

Respondents are not involved in, or have any control over, these limitation suspensions, which can be very significant and lead to damages actions being brought well after the actual 6 year mark. The Courts also tend to be generous in extending limitation periods, save where there is evidence of prejudice to the respondent.

Worker's damages actions and VWA recoveries are usually issued in the County Court of Victoria, although more complex cases can be issued in the Supreme Court of Victoria. The procedural guidance on timetabling orders discussed in the previous proceedings section applies.

VWA recoveries

The VWA is entitled to recover statutory compensation paid and payable to an injured worker from liable third parties. VWA recovery actions are often brought against host employers in labour-hire arrangements and non-employer occupiers.

The VWA's statutory entitlement to indemnity from a negligent third party is the lesser of:

- the amount of compensation paid or payable in respect of the compensable injury; or
- an amount calculated in accordance with the formula in s 369 of the WIRC Act.

In a practical sense, the first limb of the indemnity cannot be assessed with certainty because compensation payments can, conceivably, continue until death. Even claims that are closed can be re-opened.

The cap on the VWA's entitlement can therefore be determined under the second limb using the following formula:

$$[A - (B + C)] \times \frac{X}{100}$$

The formula is complicated and extremely unfavourable to third parties: It requires consideration of 3 things (as Factor B is no longer relevant).

- **Factor A** – This is the worker's hypothetical common law entitlements in respect of the compensable injury. This requires the court to assess what the worker would have received had legislation not limited or restricted his/her common law entitlements. All heads of damage must be included.
- **Factor X** – This is the third party's proportionate liability taking into account the proportionate responsibility of all other parties.
- **Factor C** – This is any amount the third party paid to a worker to settle common law entitlements.

Except in cases where the third party's proportionate liability is small, the formula will usually arrive at a figure that is higher than VWA's payments to the worker.

If there is a judgment in VWA's favour, the court will order an indemnity in its favour assessed using the formula. The VWA is then entitled to recover from a third party the amount of compensation it pays to a

worker as and when it is paid, until the amount of the indemnity is exhausted.

In practice, VWA is open, in most cases, to resolving its entitlements on an 'all-in' basis. This generally involves making an educated assessment based on what the worker is likely to be paid by VWA over the life of the claim and, subject to the cap assessed under the formula, paying an amount to VWA to cover these risks. Resolution on these terms means insurers can then close their files.

Damages awards

Unlike some other jurisdictions, Victoria does not have any statutory guidance on how to assess general damages. Courts are, however, entitled (indeed required) to consider previous decisions as a guide when awarding general damages.

Wotton Kearney monitors all reported general damages awards and what we have observed is that they continue to trend upwards. This trend has been particularly pronounced over the last 12 months during which pure psychiatric injury and historical/institutional abuse cases have dominated personal injury litigation.

The statutory maximum for general damages does not generally apply to intentional torts or historical/institutional abuse matters. In December 2024, the Victorian Court of Appeal in *Kneale v Footscray Football Club Pty Ltd*, reduced the jury award of \$3,250,000 to \$850,000 – still which exceeded the statutory maximum of \$713,780. This illustrates the potential of psychiatric injury claims, which may also influence future judgments and increase settlement expectations of claimant lawyers during mediation.

Recent cases at a glance

Case	Category	Injuries	Total General Damages Awarded
<i>Rourke v Bleakley</i> [2024] VCC 1485	Public liability	Concussion, acquired brain injury, facial and dental fractures and left knee injury – The Plaintiff was injured participating in water sports due the negligent driving of a vessel by the defendant.	\$400,000
<i>Patterson (a pseudonym) v Smith (a pseudonym)</i> [2024] VCC 1388	Historical sexual abuse	Psychiatric Injury including post-traumatic stress disorder [PTSD], anxiety, and depression – The Plaintiff was sexually abused by her grandfather when she was a child, causing psychiatric injury.	\$420,000
<i>Kneale v Footscray Football Club Ltd</i> [2024] VSCA 314	Historical sexual abuse	Psychiatric injury including post-traumatic stress disorder [PTSD], anxiety, and depression – The Plaintiff was sexually abused at the home ground of the Footscray Football Club by a volunteer at the Club while he was a child.	\$850,000 (CoA reduced jury assessment of \$3.25 million)
Bishop of Roman Catholic Diocese of Wagga Wagga, <i>Edwards v TJ (A Pseudonym)</i> [2024] VSCA 262	Historical sexual abuse	Psychiatric injury including psychological trauma and emotional distress – As a child the Plaintiff was a member of the Young Christian Students organisation and was sexually abused by a priest associated with the organisation between 1972 and 1976.	\$550,000 (CoA reduced jury assessment of \$1.1 million)
<i>Lapetina v Elgee Park Pty Ltd</i> [2024] VSCA 39	Industrial / Worker Injury	Psychiatric injury including adjustment disorder with mixed anxiety and depressed mood – The Plaintiff was working as a housekeeper when she was exposed to the aggressive and erratic behavior of one of her employer’s clients – which she alleges caused her to suffer a psychiatric injury.	\$150,000
<i>Hird (a pseudonym) v Demasi</i> [2023] VCC 1228	Historical Sexual Abuse	Psychiatric injury including post-traumatic stress disorder [PTSD] and psychological trauma/distress – The Plaintiff was sexually abused as a child by her neighbour causing psychiatric injuries.	\$67,500
<i>Comensoli v O’Connor</i> [2023] VSCA 131	Historical Sexual Abuse	Psychiatric injury including post-traumatic stress disorder [PTSD] and chronic Dysthymic Disorder – The Plaintiff was sexually abused as a child by a priest involved in his primary school.	\$525,000
<i>Cassidy v Metro Trains Melbourne Pty Ltd</i> [2023] VCC 1866	Public Liability	Fracture of the neck, right femur, scarring, injury to right shoulder, traumatic arthritis, infection post-surgery and psychiatric injury – The Plaintiff suffered injuries when she was attempting to disembark a train late at night.	\$225,000

Western Australia

Procedural rules and key dates

Personal injury damages in Western Australia are regulated by the *Civil Liability Act 2002* (WA) (**CLA**) and the *Workers' Compensation and Injury Management Act 2023* (WA) (**WCIM**).

Limitation periods

The limitation period for personal injury claims is three years under section 14 of the *Limitation Act 2005* (WA).

For dust diseases (asbestos-related), s56 provides that the action accrues when the person has knowledge of relevant facts (ie. The diagnosis of the injury/ the significance of the injury and identity of the respondent).

For historical childhood sexual abuse claims, the time limitation has been removed entirely. Victims who had previously entered into settlement agreements resolving their claims are now able to proceed with a claim for further damages where a court determines it is 'just and reasonable' to do so.

General principles in assessing damages

The fundamental principle of compensation is that damages to be recovered are in monetary terms no more and no less than the claimant's actual loss.

The assessment of damages for personal injuries in an action for negligence is:

- not an exact science

- must be governed by practical common sense in the context of the facts of the particular case
- the District Court of WA has unlimited jurisdiction to hear all personal injury claims under section 50 of the *District Court of Western Australia Act 1969* (WA)
- there is no trial by jury in WA personal injury litigation.

This favours respondents and insurers as it prevents a situation where a "rogue jury" may award exorbitant damages, and

- section 10A of the CLA allows WA Courts to refer to earlier decisions of that court or other courts for the purpose of establishing the appropriate award (codifying a judge's ability to look to all jurisdictions when assessing awards).

Heads of damages will typically include

General damages / non-pecuniary loss

The claimant is entitled to be compensated for the condition that they have been left in as a result of the accident with a view to giving them fair compensation for the pain, inconvenience and loss of enjoyment which they have sustained.

Section 9 of the CLA imposes restrictions on these damages.



The fundamental principle of compensation is that damages to be recovered are in monetary terms no more and no less than the claimant’s actual loss.

General damages covers pain and suffering; loss of amenities of life; loss of enjoyment of life; curtailment of expectation of life; and bodily or mental harm.

Restrictions and thresholds:

There is no cap on awards of general damages in WA, but there are thresholds that apply which are indexed annually in accordance with the consumer price index calculation.

The threshold amounts are specified in section 9 CLA and are applied as follows:

- Amount A is \$25,500
- Amount C is \$73,500

Section 9 of the CLA provides:

If the amount of non-pecuniary loss is assessed to be more than Amount C but less than the sum of Amount A and Amount C for the year in which the amount is assessed, damages for non-pecuniary loss are not to be awarded in an amount that is more than the excess of the amount assessed over the amount calculated as follows

Amount A – (Amount assessed – Amount C)

Translation of section 9 of the CLA:

- where general damages are assessed at or below Amount A, no award will be made
- where the assessment falls between Amount A and Amount C, the amount assessed is reduced by Amount A, and
- where the assessment is more than Amount C, but not as much as the sum of Amount A and Amount C, the assessed damages must be reduced by the following amount.

Therefore:

Assessment of damage amount if	Amount awarded under CLA
If less than \$25,500	No award
If between \$25,500 – \$73,500	The plaintiff does not receive the first \$25,500
If between \$73,500 – \$99,000	The threshold applies on a sliding scale
If greater than \$99,000	The plaintiff receives full award

Economic loss

Economic loss is addressed in section 11 of the CLA and is an assessment of loss of capacity to earn (must be productive of financial loss), rather than a claim for loss of earnings (i.e. as a result of the accident, has the claimant been rendered less capable of earning income? The court looks at the claimant’s capacity for work beyond the particular employment in which they were engaged at the time of the accident).

It is calculated using figures net of income tax.

Under the CLA, the court is to disregard earnings to the extent that they would have accrued at a rate of more than three times the average weekly earnings at the date of the award. The average total full-time earnings of persons in WA are \$2,043 as at November 2024 (20 February 2025, date records published by ABS).

Evidence to gather with respect to loss of earning capacity:

- details of pre-accident employment and education;
- pre-accident and post-accident earnings; and

- post-accident earning capacity, including the kind of work (after the accident), the claimant would be in a position to undertake; the likelihood that they would be able to obtain such work; and the remuneration which they might expect to derive from it.

A claim for loss of **superannuation** will normally follow a claim for loss of earning capacity. A discount is applied to superannuation calculations to allow for the tax advantages that would be accrued from the employers contributions, expenses in the fund – *Jongen v CSR Ltd & Anor* set out an appropriate discount as being 30% but has more recently been applied at 15%.

Past loss of earning capacity (including superannuation and interest)

Past economic loss is evidenced through tax returns, employer's records and workers compensation records.

Future loss of earning capacity (including superannuation loss)

Future economic loss is the income loss the claimant will suffer by not being able to work because of the incident. It is calculated from the date of assessment, until the retirement age of the claimant.

Damages are calculated using multiplier tables.

Past and future gratuitous services

A claimant is entitled to claim an amount equivalent to the commercial cost of domestic and nursing services which had been provided in the past and would also be provided in the future by the family or friends of the injured claimant.

The starting point for the basis of the claim for damages (i.e. the need of the claimant for those services).

These damages continue to feature in claims, even where elements seem difficult or unlikely to be made out and as a method by which claimant solicitors seek increased awards.

Section 12 of the CLA provides that a claim for gratuitous care depends on whether:

- the services would have been, or would be, provided even if the person had not suffered the injury – then there is no award;
- the claim is assessed at below Amount B – if so, there is no entitlement to an award. This amount is also indexed annually and is currently \$8,000;
- services are provided for more than 40 hours per week
 - the amount of the award is not to exceed the amount calculated on a weekly basis at the rate of the average weekly earnings (AWE) of all employees in WA for the relevant quarter; and
- services are provided for less than 40 hours per week
 - then the amount to be awarded is not to exceed the amount calculated on an hourly rate that is 1/40 of the AWE of all employees for the relevant quarter.

Thresholds and caps:

- damages may be awarded for services provided by a member of the same household/ family.
- no damages awarded if the court assesses the damages (past and future) at \$8,000 or less.

- the value is assessed with regard to the average weekly total earnings of all employees in WA for the relevant quarter and the rate per hour is 1/40 of the average weekly earnings, and
- a claim per week cannot exceed 40 hours.

Special damages

Special damages are used to refer to past Medicare benefits, past private healthcare benefits and associated costs incurred by a claimant in relation to their past care.

This can include private expenses for painkillers, medical aids (such as crutches), and the costs of attending appointments (such as travel).

Other considerations

***Fox v Wood* damages**

Where a plaintiff has received workers compensation benefits upon which tax was paid and is required to repay the gross benefits from damages, the damages must be increased to allow for the tax paid.

The claimant's loss, being the tax paid on the benefits received, is a natural and foreseeable consequence of the injuries: *Fox v Wood* (1981).

When making such claims, it is normally necessary to prove that the insurer does require repayment of the gross sum.

Vicissitudes of life

A damages award for future losses has a 6% discount factor applied to it in line with Section 5 of the *Law Reform (Miscellaneous Provisions) Act 1941* (WA) which reflects the vicissitudes of life (i.e. normal sickness, absences from employment) which would reduce the claimant's position or income.

Injured workers

The rights of a worker injured in the course of employment are governed by the WCIM and WorkCover WA.

The WCIM (and its application) has become increasingly relevant with the rise in injured worker claims and contractual relationships between employers and other entities on the same sites. It provides for no-fault compensation entitlements to an injured worker, but, relevantly to insurers, limits the common law rights of injured workers, employers and third parties.

The standard limitation period for a worker's injury claim is three years.

When a worker is injured during their employment, they are generally entitled to no-fault compensation benefits under their employer's mandatory WorkCover insurance. These insurances are statutorily required and must comply with Schedule 1 of the WCIM.

A worker's entitlements under workers compensation typically includes weekly payments. A worker may also claim (a) 'no-fault' lump sum payments for their respective injuries (including where the injury is both serious and permanent), and (b) all reasonable medical and the like expenses.

A worker may bring a claim for common law damages against their employer by satisfying the requirements under s 421(1) of the WCIM as follows:

- if the worker elects to retain the right to seek the damages,
- the Director of WorkCover WA registers the election, court proceedings seeking damages are commenced after the Director provides written notice to the worker that the election is registered, and

- the Court is satisfied that the worker has established a whole person impairment (WPI) of greater than 15%.

Assessment of WPI of Worker

A worker has their injury assessed by an approved medical specialist (AMS) approved by WorkCover WA, who evaluates the injury using the WorkCover WA Guides for the Evaluation of Permanent Impairment and the American Medical Association's Guides to the Evaluation of Permanent Impairment.

If the worker's injuries are assessed at 15% WPI or more, the worker has eligibility to pursue common law damages. However, being assessed over 15% WPI does not make pursuing common law damages against the employer mandatory, and all the requirements under s 421(1) must be met.

Election by the Worker

Critically, the injured worker must elect to pursue their employer under s 421(1). Previously, workers were required to elect to pursue common law damages by the "termination date" (being 12 months from the date in which the worker made their workers' compensation claim). However, under the new WCIM the "termination date" has been abolished, but workers are still required to register an election with WorkCover WA to pursue their employer at common law.

Workers' Rights Against a Third Party

The provisions of the WCIM do not apply to, or affect, the injured worker's rights to pursue a third party for damages. An injured worker is able to pursue any third party for any alleged liability for their workplace injury. Accordingly, where the injured worker has not satisfied s 421(1) (such as the minimum 15% WPI threshold) an injured worker will often look to obtain

damages from a negligent third party who may only have a limited responsibility (e.g. an occupier).

We have seen an increasing number of claims where, despite the injured worker satisfying the 15% WPI threshold, the worker does not elect to pursue their employer. This results in the worker's common law rights against the employer being waived and subsequently, the rights of a negligent third party to pursue the employer for contribution under the WCIM.

Section 427(1) – an important consideration in all injured worker claims

As outlined above, section 421(1) of the WCIM regulates the injured worker's ability to pursue their employer.

Where s 421(1) is satisfied, there is still a limit placed on the employers' liability to the claim under s 424(2)(a), where an employer's liability is capped if the injured worker's WPI is above 15% but less than 25% (known as a 'capped-claim').

The capped amount is indexed every financial year by WorkCover WA and is currently valued at \$555,426.

Critically, s 427(1) provides that the employer cannot be joined to a proceeding or be joined to contribute to the claim under the Law Reform (*Contributory Negligence and Tortfeasors' Contribution*) Act 1947 (WA) if:

- s 421(1) has not been satisfied – that is the injured worker has not met the threshold 15% WPI and elected to pursue his employer, or
- s 424(2)(a) has been satisfied – that is that the employer has already paid the injured worker the statutory limit (including weekly compensation payments).

The practical effect of s 427(1) is that an employer often cannot be joined to proceedings by a third party, where an injured worker has not elected to pursue their employer or satisfied the minimum WPI.

This can result in unjust outcomes where a third party (who may have limited responsibility for a claim) cannot join or pursue the employer (who has the lion's share of liability) due to the injured worker's decision to not elect to pursue their employer. Similarly, even where the employer is a party to the proceedings, in the case of a capped claim the third party could be responsible for bearing a disproportionately high share of the damages if the capped amount has been exhausted.

This means that a third party who has limited responsibility for a claim may end up paying 100% of the claim. This nuance is also as a result of Part 1F of the CLA not applying to personal injury claims – i.e. the proportionate liability regime cannot be used to limit the third party's liability exposure to a 'proportion' of their liability only.

The application of s 427(1) by the WA Courts is largely untested. Cases typically relate to the procedural requirements to satisfy its operation, such as attaining the correct WPI to sue an employer (e.g. *Gable v Steel Cap Recruitment Pty Ltd* (No 2) [2017] WADC 10) or an employee's election process, such as filing the correct forms (e.g. *Mogensen v Premium Grain Handlers Pty Ltd* [2008] WASC 145).

Section 435(1) – Recovery actions by workers' compensation insurers

The increase in injured worker claims in WA has led to an increase in recovery actions by workers compensation insurers. Under the WCIM, the employer of an injured worker has a statutory right to be indemnified by a negligent third party for any

compensation that has been paid, or may be paid, to an injured worker – this takes the form of a subrogated recovery claim controlled by the employer's workers' compensation insurer.

The relevant workers' compensation insurer pursues its statutory rights of recovery from third parties (i.e. nonemployer defendants) by way of a recovery action for indemnity under section 435(1) of the WCIM. This is often called a workers' compensation recovery.

Section 93(1) covers compensable injuries that were caused in circumstances that create a legal liability in some person other than the employer and where neither the employer nor any person for whose negligence the employer is legally responsible is negligent. In that case, the employer is entitled to be indemnified by the person whose negligence caused the injury to the worker to the full extent of the employer's liability to pay compensation under this Act, whether or not the defendant has discharged his liability to pay damages to the worker by judgment or by settlement or otherwise.

An allowance is made for a reduction in the amount owing by a negligent third party to the extent of the worker or employer's own negligence under s 435. Recovery claims are often made against occupiers of the premises where the workplace injury occurred (such as the mine operator or site owner); host employers due to the increased use of labour-hire services in the mining and construction industry; manufacturers and suppliers of relevant equipment which may have caused or contributed to a workplace injury; and other contractors/sub-contractors at the site who have some involvement in the workplace injury (such as spotters or site supervisors).

Section 435(1) provides statutorily protected cause of action for an employer/workers' compensation insurer to recover sums it has paid to an injured employee

from any negligent third party. WA Court decisions have protected this right and ruled against parties trying to circumvent this provision.

Some workers compensation insurers are prepared to accept reduced sums to satisfy a recovery, particularly where there is limited liability on behalf of the negligent third party.

Limitation Period for recovery actions

The limitation period for a workers' compensation recovery action is 6 years from the date each payment of compensation is made, which means the workers' compensation insurer may be able to bring proceedings against a third party many years after the worker's injury has happened or resolved.

To circumvent this issue, an injured worker's lawyer typically notifies or "invites" the workers' compensation insurer to attend the settlement conference in the common law proceeding so that both claims can be resolved at the same time.

Principal's Indemnity Extension

A nuance of the WA jurisdiction is the increasing prevalence of a 'principal's indemnity extension' within a workers compensation policy, particularly in the mining, oil & gas and construction industries.

A principal's indemnity extension is usually an endorsement or extension on the employers' workers compensation policy that extends insurance cover to the named principal (usually the operator or head contractor) for any claim made against the principal arising out of an injury to an employee of the subject employer (usually a sub-contractor/contractor).

In practice, what a principal's indemnity extension in a worker's compensation policy effectively does is:

- provide a form of public liability cover for the named principal, in that the workers compensation policy extension will respond to the common law claim from the injured employee (as opposed to the principal's public liability policy); and
- prevent the employer or the workers compensation insurer from bringing a WorkCover recovery as the principal is insured for such a claim under the same workers compensation policy. This results in a circuitous action (where the insurer would be recovering from themselves).

It is therefore important to review the relevant contractual materials between the principal and contractor/employer of the injured worker in order to determine whether a principal's indemnity extension is available.



Recent cases at a glance

Case	Plaintiff details	Cause of action	Injuries	NEL Award	Total general damages awarded
<i>Pringle v Tabloid Pty Ltd</i> [2024] WASCA 152	Female, 26	Negligence	Caustic burns to gastrointestinal tract – Plaintiff sustained injuries after consuming chips from Chicken Treat mistakenly seasoned with caustic soda.	\$100,000	\$516,683.79
<i>Carusi v St Mary's Anglican Girls School Inc</i> [2024] WASCA 137	Female, 44	Occupiers' liability	Ankle injury – Plaintiff sustained injuries after falling in an aisle at a performing arts centre while she was a volunteer for a dance competition.	\$110,000	\$1,191,278.34 (provisional assessment only as Plaintiff unsuccessful, WK acted on behalf of Defendant)
<i>Allen v Merym Pty Ltd t/as EMCO Building</i> [No 3] [2023]	Male	Occupiers' liability & workplace injury	Elbow injury – Plaintiff sustained injuries to his right elbow after walking into a protruding scaffold tube at a construction site he was working at.	\$40,000	\$554,115
<i>Fabri v Masters Home Improvement Australia Pty Ltd</i>	Male, 56	Occupiers' liability	Back injury – Plaintiff sustained injuries after slipping on liquid on the floor of a store.	\$500	\$120,744.20
<i>Tristam-Howard v Morris Corporation (Aust) Pty Ltd</i> [2023] WADC 60	Female, 21	Workplace injury	Back injury – Plaintiff sustained injuries while sweeping / cleaning a runway during the course of his work pursuant to a labour hire agreement.	\$110,000	\$1,337,537.76
<i>Murrell v Brosna Constructions Pty Ltd</i> [2022] WADC 68	Male, 31	Workplace injury	Foot injury – Plaintiff sustained injury when formwork he was working on collapsed and caused him to fall 3.6 metres.	\$60,500	\$540,963.25
<i>Ciesla v Mosman Bay Construction Pty Ltd (in liq)</i> [2022] WADC 3	Male, 25	Workplace injury	Wrist, elbow and forearm injury – Plaintiff sustained injury when he fell off a ladder while working on a construction site.	\$150,000	\$696,590.73
<i>Essaiyd v Saint</i> [2021] WADC 61	Male, 43	Occupiers' liability	Hand injury – Plaintiff's hand injured while working on a shipping vessel as a share fisherman.	\$20,000 (but not awarded as below threshold under s9 of the CLA)	\$23,595

Determination Of Damages For Non Economic Loss section 16 of the Civil Liability Act 2002 No 22

% of MEC	% of Max Amount	Award (Rounded)
100%	100%	761,500
99%	99%	754,000
98%	98%	746,500
97%	97%	738,500
96%	96%	731,000
95%	95%	723,500
94%	94%	716,000
93%	93%	708,000
92%	92%	700,500
91%	91%	693,000
90%	90%	685,500
89%	89%	677,500
88%	88%	670,000
87%	87%	662,500
86%	86%	655,000
85%	85%	647,500
84%	84%	639,500
83%	83%	632,000
82%	82%	624,500
81%	81%	617,000
80%	80%	609,000
79%	79%	601,500
78%	78%	594,000
77%	77%	586,500
76%	76%	578,500
75%	75%	571,000
74%	74%	563,500
73%	73%	556,000
72%	72%	548,500
71%	71%	540,500
70%	70%	533,000
69%	69%	525,500
68%	68%	518,000
67%	67%	510,000
66%	66%	502,500
65%	65%	495,000
64%	64%	487,500
63%	63%	479,500
62%	62%	472,000
61%	61%	464,500
60%	60%	457,000
59%	59%	449,500
58%	58%	441,500
57%	57%	434,000
56%	56%	426,500
55%	55%	419,000
54%	54%	411,000

% of MEC	% of Max Amount	Award (Rounded)
53%	53%	403,500
52%	52%	396,000
51%	51%	388,500
50%	50%	381,000
49%	49%	373,000
48%	48%	365,500
47%	47%	358,000
46%	46%	350,500
45%	45%	342,500
44%	44%	335,000
43%	43%	327,500
42%	42%	320,000
41%	41%	312,000
40%	40%	304,500
39%	39%	297,000
38%	38%	289,500
37%	37%	282,000
36%	36%	274,000
35%	35%	266,500
34%	34%	259,000
33%	33%	251,500
32%	30.0%	228,500
31%	26.0%	198,000
30%	23.0%	175,000
29%	18.0%	137,000
28%	14.0%	106,500
27%	10.0%	76,000
26%	8.0%	61,000
25%	6.5%	49,500
24%	5.5%	42,000
23%	5.0%	38,000
22%	4.5%	34,500
21%	4.0%	30,500
20%	3.5%	26,500
19%	3.0%	23,000
18%	2.5%	19,000
17%	2.0%	15,000
16%	1.5%	11,500
15%	1.0%	7,500
1% to 14%	No damages to be awarded	

Notes

1. Maximum Amount = \$761,500
2. "MEC" denotes Most Extreme Case
3. "Max Amount" denotes the maximum amount to be awarded for non economic loss damages per Section 16 (2)
4. Award amounts have been rounded to the nearest \$500 per Section 16 (4)

ISV	Injury between 1 Jul 18 – 30 Jun 19	Injury between 1 Jul 19 – 30 Jun 20	Injury between 1 Jul 20 – 30 Jun 21	Injury between 1 Jul 21 – 30 Jun 22	Injury between 1 Jul 22 – 30 Jun 23	Injury between 1 Jul 23 – 30 Jun 24	Injury after 1 Jul 24
1	1,530	1580	1,620	1,630	1,690	1,780	1,860
2	3,060	3,160	3,240	3,260	3,380	3,560	3,720
3	4,590	47,40	4,860	4,890	5,070	5,340	5,580
4	6,120	6,320	6,480	6,520	6,760	7,120	7,440
5	7,650	7,900	8,100	8,150	8,450	8,900	9,300
6	9,450	9,750	9,990	10,050	10,420	10,980	11,480
7	11,250	11,600	11,880	11,950	12,390	13,060	13,660
8	13,050	13,450	13,770	13,850	14,360	15,140	15,840
9	14,850	15,300	15,660	15,750	16,330	17,220	18,020
10	16,650	17,150	17,550	17,650	18,300	19,300	20,200
11	18,770	19,330	19,780	19,890	20,620	21,740	22,760
12	20,890	21,510	22,010	22,130	22,940	24,180	25,320
13	23,010	23,690	24,240	24,370	25,260	26,620	27,880
14	25,130	25,870	26,470	26,610	27,580	29,060	30,440
15	27,250	28,050	28,700	28,850	29,900	31,500	33,000
16	29,670	30,540	31,250	31,410	32,550	34,290	35,920
17	32,090	33,030	33,80	33,970	35,200	37,080	38,840
18	34,510	35,520	36,350	36,530	37,850	39,870	41,760
19	36,930	38,010	38,900	39,090	40,500	42,660	44,680
20	39,350	40,500	41,450	41,650	43,150	45,450	47,600
21	42,060	43,290	44,300	44,510	46,110	48,570	50,870
22	44,770	46,080	47,150	47,370	49,070	51,690	54,140
23	47,480	48,870	50,000	50,230	52,030	54,810	57,410
24	50,190	51,660	52,850	53,090	54,990	57,930	60,680
25	52,900	54,450	55,700	55,950	57,950	61,050	63,950
26	55,930	57,570	58,890	59,150	61,260	64,540	67,610
27	58,960	60,690	62,080	62,350	64,570	68,030	71,270
28	61,990	63,810	65,270	65,550	67,880	71,520	74,930
29	65,020	66,930	68,460	68,750	71,190	75,010	78,590
30	68,050	70,050	71,650	71,950	74,500	78,500	82,250
31	71,390	73,490	75,170	75,480	78,150	82,340	86,270
32	74,730	76,930	78,690	79,010	81,800	86,180	90,290
33	78,070	80,370	82,210	82,540	85,450	90,020	94,310
34	81,410	83,810	85,730	86,070	89,100	93,860	98,330
35	84,750	87,250	89,250	89,600	92,750	97,700	102,350
36	88,390	91,000	93,080	93,440	96,720	101,880	106,730
37	92,030	94,750	96,910	97,280	100,690	106,060	111,110
38	95,670	98,500	100,740	101,120	104,660	110,240	115,490
39	99,310	102,250	104,570	104,960	108,630	114,420	119,870
40	102,950	106,000	108,400	108,800	112,600	118,600	124,250
41	106,860	110,030	112,520	112,940	116,880	123,110	128,980
42	110,770	114,060	116,640	117,080	121,160	127,620	133,710
43	114,680	118,090	120,760	121,220	125,440	132,130	138,440
44	118,590	122,120	124,880	125,360	129,720	136,640	143,170
45	122,500	126,150	129,000	129,500	134,000	141,150	147,900
46	126,410	130,180	133,120	133,640	138,280	145,660	152,630
47	130,320	134,210	137,240	137,780	142,560	150,170	157,360
48	134,230	138,240	141,360	141,920	146,840	154,680	162,090
49	138,140	142,270	145,480	146,060	151,120	159,190	166,820
50	142,050	146,300	149,600	150,200	155,400	163,700	171,550

ISV	Injury between 1 Jul 18 – 30 Jun 19	Injury between 1 Jul 19 – 30 Jun 20	Injury between 1 Jul 20 – 30 Jun 21	Injury between 1 Jul 21 – 30 Jun 22	Injury between 1 Jul 22 – 30 Jun 23	Injury between 1 Jul 23 – 30 Jun 24	Injury after 1 Jul 24
51	146,220	150,600	154,000	154,620	159,970	168,510	176,590
52	150,390	154,900	158,400	159,040	164,540	173,320	181,630
53	154,560	159,200	162,800	163,460	169,110	178,130	186,670
54	158,730	163,500	167,200	167,880	173,680	182,940	191,710
55	162,900	167,800	171,600	172,300	178,250	187,750	196,750
56	167,070	172,100	176,000	176,720	182,820	192,560	201,790
57	171,240	176,400	180,400	181,140	187,390	197,370	206,830
58	175,410	180,700	184,800	185,560	191,960	202,180	211,870
59	179,580	185,000	189,200	189,980	196,530	206,990	216,910
60	183,750	189,300	193,600	194,400	201,100	211,800	221,950
61	188,190	193,870	198,270	199,090	205,950	216,910	227,300
62	192,630	198,440	202,940	203,780	210,800	222,020	232,650
63	197,070	203,010	207,610	208,470	215,650	227,130	238,000
64	201,510	207,580	212,280	213,160	220,500	232,240	243,350
65	205,950	212,150	216,950	217,850	225,350	237,350	248,700
66	210,390	216,720	221,620	222,540	230,200	242,460	254,050
67	214,830	221,290	226,290	227,230	235,050	247,570	259,400
68	219,270	225,860	230,960	231,920	239,900	252,680	264,750
69	223,710	230,430	235,630	236,610	244,750	257,790	270,100
70	228,150	235,000	240,300	241,300	249,600	262,900	275,450
71	232,890	239,880	245,290	246,310	254,780	268,360	281,170
72	237,630	244,760	250,280	251,320	259,960	273,820	286,890
73	242,370	249,640	255,270	256,330	265,140	279,280	292,610
74	247,110	254,520	260,260	261,340	270,320	284,740	298,330
75	251,850	259,400	265,250	266,350	275,500	290,200	304,050
76	256,590	264,280	270,240	271,360	280,680	295,660	309,770
77	261,330	269,160	275,230	276,370	285,860	301,120	315,490
78	266,070	274,040	280,220	281,380	291,040	306,580	321,210
79	270,810	278,920	285,210	286,390	296,220	312,040	326,930
80	275,550	283,800	290,200	291,400	301,400	317,500	332,650
81	280,560	288,960	295,480	296,700	306,880	323,270	338,700
82	285,570	294,120	300,760	302,000	312,360	329,040	344,750
83	290,580	299,280	306,040	307,300	317,840	334,810	350,800
84	295,590	304,440	311,320	312,600	323,320	340,580	356,850
85	300,600	309,600	316,600	317,900	328,800	346,350	362,900
86	305,610	314,760	321,880	323,200	334,280	352,120	368,950
87	310,620	319,920	327,160	328,500	339,760	357,890	375,000
88	315,630	325,080	332,440	333,800	345,240	363,660	381,050
89	320,640	330,240	337,720	339,100	350,720	369,430	387,100
90	325,650	335,400	343,000	344,400	356,200	375,200	393,150
91	330,940	340,850	348,570	349,990	361,980	381,290	399,530
92	336,230	346,300	354,140	355,580	367,760	387,380	405,910
93	341,520	351,750	359,710	361,170	373,540	393,470	412,290
94	346,810	357,200	365,280	366,760	379,320	399,560	418,670
95	352,100	362,650	370,850	372,350	385,100	405,650	425,050
96	357,390	368,100	376,420	377,940	390,880	411,740	431,430
97	362,680	373,550	381,990	383,530	396,660	417,830	437,810
98	367,970	379,000	387,560	389,120	402,440	423,920	444,190
99	373,260	384,450	393,130	394,710	408,220	430,010	450,570
100	378,550	389,900	398,700	400,300	414,000	436,100	456,950

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