How Personal Injury Compensation is Calculated

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After suffering a personal injury, you have the right to file either a claim through the negligent party's insurance company or a lawsuit against the at-fault party. Personal injury claims are designed to make you whole by providing monetary compensation that makes up for your losses. But calculating the amount of compensation, also known as damages, is not always straightforward. Having a knowledgeable South Carolina personal injury attorney can help you win the justice you deserve.

How are personal injury claims paid out?

Many injury claims are covered by the at-fault party's liability insurance. This is especially true with respect to automobile accidents. Insurers generally prefer to settle personal injury claims outside of court, and injured parties are usually willing to do so provided a fair settlement can be reached.

But this doesn't always happen. Insurance companies are businesses, so they have a financial incentive to pay as little as possible. Insurers, therefore, often deny perfectly valid claims over a perceived technicality or simply because they believe you won't fight it. In other cases, insurance companies make unreasonably low settlement offers.

If the insurance company is unwilling to negotiate fairly, or attempts to deny the claim outright, you have the option of going to court. This means filing a lawsuit against the at-fault party.

Damages available in personal injury claims

Calculating the total amount of damages starts with understanding the different types of damages. The following categories of damages are common in South Carolina personal injury claims:

- Medical expenses, including future medical treatments
- Physical therapy and rehabilitation
- Prescription drug medications
- Adaptive medical equipment, such as wheelchairs or crutches
- Lost income due to time recovering or seeing the doctor
- Lost future income potential if you cannot return to the same career as before the injury
- Pain and suffering

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- Mental and emotional distress
- Disfigurement and scarring

Some of these damages may not accrue until later. For example, you may not need physical therapy or corrective surgery for months or even years after an injury.

Calculating future damages often requires input from an expert witness. This is someone with special or technical knowledge who can assist in quantifying the losses that you are expected to incur in the future. For example, a vocational expert witness can discuss how your future earnings will be impacted by the injury. With the aid of expert witnesses, your South Carolina personal injury attorney can explain to the jury what a fair amount of compensation is.

How your negligence may affect the calculation

Victims sometimes bear a degree of responsibility for causing their own injuries. This can reduce the amount of compensation. For example, if you were partly responsible for causing an automobile accident, a jury can assign a percentage of blame to you. That percentage will then reduce the total damages calculation. As long as you were not more than 50% responsible for the injury, you can still recover.

South Carolina personal injury statute of limitations

You do not have an unlimited amount of time to seek compensation for your injuries. A deadline, known as a statute of limitations, applies to all South Carolina personal injury claims. You generally have three years from the date you knew, or should reasonably have known, that you suffered an injury. In some situations, however, the statute of limitations is only two years.

For most cases, the statute of limitations will start on the date of the injury itself. But some injuries, like those caused by exposure to toxic chemicals, are not apparent for a long time. A court may have to determine the date at which you reasonably should have known you were injured. The important thing to know is that as soon as you are aware of an injury, you should contact a South Carolina personal injury attorney. Missing the statute of limitations could permanently invalidate your claim.

Rosen Hagood's personal injury team understands not only what it takes to present a compelling claim, but how to properly calculate it so you receive the compensation you deserve. If you were injured because of someone else's negligence, reach out to us today.

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