

Useful definitions

Accident Benefits

The amount available to you for accident benefits depends on the date of your accident, and possibly the date of renewal of the policy that you are claiming under. See the attached chart prepared by the Financial Services Commission of Ontario for further details on the benefits to which you may be entitled: <http://www.fsco.gov.on.ca/english/insurance/auto/reform/MoreChoice.pdf>.

Pain and Suffering or General Damages

In order to sue for pain and suffering (sometimes referred to as "general damages"), you must prove that you have passed a "verbal threshold." This means that you have sustained a permanent serious disfigurement or permanent serious impairment of an important physical, mental or psychological function. Generally speaking, this means that you will not be able to return to your usual employment or daily activities indefinitely. Even if you do meet this test, there is a \$30,000 statutory deductible that applies to a pain and suffering claim. The statutory deductible reduces the amount negotiated through settlement or awarded by a court. For instance, if through negotiation or trial your general damages are assessed at \$70,000, the amount recovered (prior to legal fees) would be \$40,000 (\$70,000 less \$30,000). If, however, the pain and suffering claim is assessed at an amount of more than \$100,000, there is no deductible that applies.

To review the actual wording of the Insurance Act, go to http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90i08_e.htm and see section 267.5(7).

This wording is further clarified in section 4.2 of Regulation 461/96. Review the wording at http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_960461_e.htm.

Economic Loss

You are entitled to claim your economic loss over and above accident benefits received, but you are limited to 80% of net economic loss prior to trial if your accident occurred before September 1, 2010, or 70% of gross losses if the accident occurred on or after that date. Economic losses that occur after trial are fully recoverable. You do not have to prove permanent serious injuries to claim your excess economic loss.

To review the actual wording of the Insurance Act, go to http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90i08_e.htm and see section 267.5(1).

*Although every case is different, finding the best resolution to your case is our common goal.
Please contact us today if you have any questions or concerns.*