

Clinical negligence

Valuing (assessing) a claim for compensation for injuries suffered as a result of clinical negligence

It seems an impossible task to place a monetary value on pain and suffering. How is it done?

Reviewing information

Firstly, we review all of the medical reports and records that we have obtained to see exactly what injuries you have suffered, how severe your symptoms have been. We will see whether you are likely to fully recover from your symptoms and if so how long that will take. If not, we will consider how you may be affected by any permanent symptoms. For example, will the symptoms affect your ability to work until your expected retirement age?

We will consider the other information that you have given us about how the injuries affected you as an individual. This is so we can build up a picture of your particular circumstances.

We will consider any out of pocket expenses you have incurred, for example loss of earnings, private treatment costs, medication and any care that family members have had to provide you.

Judge's guidelines

We look at the information given to the judges to help them assess claims in court. This is known as the Judicial Studies Board Guidelines. This provides brackets of compensation for different types of injuries which we will use as a starting point.

Case law

We then research awards of compensation that have been made by judges to people who have suffered similar injuries to yours. No two people will ever suffer the same symptoms even if they were involved in similar claims.

By researching similar cases, we will narrow the bracket that would apply to your particular injuries.

We look at how your circumstances compare to those of the people whose injuries have been assessed by the court. You may have been affected differently, to a greater or lesser degree, which will be reflected in the valuation of your claim.

Valuing your claim

Only then will we be in a position to advise you what level of compensation would be appropriate for your injuries, based on what a judge would be likely to award you if he were assessing your claim in court.

The defendant will go through a similar process when making offers to settle your claim. For this reason, in the majority of claims, we are able to obtain a reasonable settlement for you.

Negotiations

You will appreciate that it is the intention of the other side to settle your claim for as little as possible, whereas we are trying to recover as much compensation for you as possible. Therefore, sometimes it will be necessary to go through a period of negotiation. Having said that, on some occasions the first settlement offer can be a reasonable one.

You will be asked to decide whether you wish to accept each settlement offer made by the other side, even if we think it is insufficient. In this way, you retain control of your claim.

If negotiations prove unsuccessful

If after a period of negotiating with the other side, we are unable to recommend acceptance of their final offer, we may advise you to commence court proceedings, so that your compensation may be assessed by a judge in court. If so, we will let you have more information about that process at that time.

If you have any questions about your claim for compensation, do not hesitate to contact the person dealing with your claim, who will be happy to answer them.

Contact

For further information or advice, please contact:

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