

What's My Case Worth?

An Overview of How To Value Your Case

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You have most likely heard the radio ads or have seen the television commercials where happy, smiling individuals say, “Hey my lawyer go me \$750,000.00 for my accident! You can do the same.” Hold on. Not so fast. Before you

book your trip to Europe, or order your new car, you need to have a realistic discussion about the value of your case. We assure you anyone who received a settlement check from an insurance company for \$750,000.00 was seriously injured; most likely they suffered permanent, life changing injuries they will have to live with for the rest of their life.

Calculating the value of an accident case is a complicated process. This Report uses an automobile accident for the basis of the analysis. Many of these factors come into play in other types of accident or injury cases. And, truth be known, most people would prefer their health to an insurance settlement check. Good health is essential to a happy life. No amount of money can compensate for chronic pain or lifetime disabilities. Nonetheless, when someone is injured in an accident the injured person is entitled to be fairly compensated for whatever injuries they sustained whether they are temporary or

permanent. In this Report when we discuss fair compensation we use it to also mean what the case is worth

The question then is what is fair compensation? There are two elements to any injury case, both of which are important to arriving at a fair compensation figure. The first is liability; the second is damages. Before an injured person can assert a claim for damages arising from an accident he or she has to show that the other person is liable or at fault. Colorado is a comparative negligence state. This means if the other person is 100% at fault the injured party recovers 100% of the settlement. If the injured party is 20% responsible, they recover 80% of the settlement. The process to determine percentages is complicated. We will be happy to discuss the process with you.

There are many factors that go into arriving at a fair compensation figure. These factors include percentage of responsibility, the nature and extent of the injuries, pre-existing conditions, present and future medical expenses, lost wages or income, any impairment or disfigurement, loss of enjoyment of life, age, and pain and suffering. An additional factor that may come into the calculation as to what your case is actually worth is whether there is insurance coverage available. Let's take a brief look at each of these factors.

Percentage of Responsibility

As noted, Colorado law allows a driver or their insurance company to raise this as a factor in resolving a case. For example, if there is an accident where one driver has run a red light and struck another car in the side, most likely that person will be 100% liable. If there is an accident where both drivers ran a stop sign then it will not be so clear and if both are found 50% at fault, neither driver will recover damages from the other driver or their insurance company. As you can imagine, there are many different scenarios.

Nature and Extent of the Injuries

The nature and extent of the injuries are an important factor. The injuries can be what are called soft tissue injuries---sore muscles and aches and pain---or more serious injuries such as broken bones, partial paralysis, loss of an eye or limb and permanent

impairment or disfigurement. As a rule of thumb, the more serious the injuries the more the case is worth.

Preexisting Conditions

If an injured individual has a preexisting condition such as a bad back, or neck that is aggravated in an accident, the fact of the preexisting condition may become a factor in calculating damages. The responsible party may assert that the current accident is not the cause for the condition.

Present and Future Medical Expenses

The amount of medical expenses incurred for treatment is an important factor in determining what a case is worth. The higher the expenses the more value a case has, and, as a rule, the more serious the injuries. Payments to the treating health care providers such as doctors, therapists and other specialists will establish an actual amount of paid expenses. These health care providers will also be able to establish an amount of anticipated or future medical expenses that will be incurred.

Lost Wages or Income

An individual injured in an accident is entitled to be compensated for lost time at work. This is true of both an hourly wage earner as well as an individual employed on a salary.

Impairment or Disfigurement

If an injured person suffers a permanent impairment from the accident, there is a procedure for assigning a value to the impairment. This might involve, for example, someone who suffers an injury to a leg, foot or ankle that requires the use of a cane for mobility. An impairment rating can be calculated using a formula. Similarly, if someone loses the uses of an appendage such as a hand they are entitled to be compensated for such loss of use. Any disfigurement such as a scar is also a factor. The nature and severity of the scar and the location are important. A permanent scar on the face, for example, is worth more than a scar on the leg.

Loss of Enjoyment of Life

An injured individual is entitled to compensation for life activities they either can no longer do or can now do only a limited basis. If your passion is gardening and you can

no longer engage in that activity it has a value. The same applies to most any life activity such as walking, hiking or skiing. There is not an exact formula for placing a value on these activities.

Age

The age of the injured person is a factor that is important in calculating a value for a case. A similar case involving a 29 year old will have more value than one involving a 70 year old. For example, under a standard Life Expectancy table a 25-year-old male has an average life expectancy of 57 additional years; a 70-year-old female has a life expectancy of 17 additional years.

Pain and Suffering

An individual injured in an accident is entitled to be compensated for the pain and suffering they have suffered as a result of the accident. People's tolerance levels are as varied as there are people. Like loss of enjoyment of life, there is no formula for calculating an exact figure of pain and suffering. It depends upon the individual and the nature and extent of the injuries, as well as their life expectancy.

Once an evaluation has been done taking into account all of the above factors, there remains a final factor that may be the most important one and that is whether there is money available to pay compensation. Usually this means insurance. Colorado law requires that drivers have insurance. It is a misdemeanor to drive without at least the minimum required liability insurance. Under the Colorado Statutes the minimum required amount is \$25,000.00. This is not much coverage. You can under your own policy have what is called underinsured and uninsured coverage that can pick up any gap in coverage. You can also have under your own policy up to \$25,000.00 in medical payment coverage that will pay for your medical expenses. These coverages---under and uninsured coverage and medical payment coverage---are comparatively cheap coverages to have. Be sure to check with your own agent to make sure you have both.

Lastly, do not be in a hurry to settle your case. The foremost consideration in any accident is your health. No amount of money can replace good health. You want to make sure you are on the road to recovery and all medical and health issues have been

addressed before you settle your claim. The insurance company will require that you sign a Full Release in exchange for a settlement check. Experience tells us that it can take up to a year or more to recover fully from many accidents. Patience is another key to successfully resolving your case.

Contact our office for further information.

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