



# Vehicle Accident

## Personal Injury Resource



**If you are injured in a vehicle collision**, the physical and emotional consequences can be overwhelming. There are certain actions you must take, and at the right time, in order to get the benefits and compensation you need, such as:

- Sue at-fault driver within 2 years of accident
- Inform your accident benefits insurer of accident within 7 days
- Complete the accident benefits application within 30 days
- Inform defendants within 120 days, in writing, of intent to sue

There are two sources of compensation you can receive for your vehicle accident. Hooper Law can help determine what your best course of action can be.

### 1. No-Fault Benefits (or Statutory Accident Benefits)

These are benefits paid by your own insurance company. You must tell your insurer about the accident within seven days, and send back your Application for Accident Benefits within 30 days of receiving the insurance forms.

#### **The application includes:**

- An application form completed by you (OCF-1)
- An employer's confirmation of income (OCF-2)
- A disability certificate completed by treatment provider (OCF-3)

Statutory Accident Benefits are based on the coverage you have with your insurance company. Unless your claim for benefits is refused, this coverage usually entitles you to the following:

#### **Income replacement benefits:**

If you were employed when the crash happened, these will be paid to you while you are off work. For the first two years you will be eligible to receive 70 per cent of your gross wages, up to a maximum of \$400 a week. There is a one week waiting period. After two years, your auto insurance company may have to continue to pay these benefits if you are unable to do any job for which you are reasonably suited by training, education or experience. This is a more difficult test to meet.

If you are unemployed, you may be eligible to receive a non-earner benefit of \$185 a week for the first two years after the accident.

If you are self-employed, your insurance company will use a government-approved formula to determine your right to income replacement benefits.

#### **Caregiver benefits:**

If you have been a caregiver to a child or another individual, caregiver benefits used to be a benefit that was standard in automobile insurance policies. Now you must have purchased this benefit as an optional benefit to have the possibility of entitlement after a motor vehicle accident. This benefit is paid as an alternative to income replacement benefits and non-earner benefits, and we can assist with determining which of these benefits is best to select in your particular circumstances.

#### **Attendant care benefits:**

You may be entitled to payment for someone to help you with personal care and hygiene.

There are specific specialized forms which must be completed by an Occupational Therapist to trigger your right to these benefits. (Attendant Care Benefits: Form 1)

#### **Medical and rehabilitation benefits:**

These are available to you for up to 5 years or up to \$65,000, whichever comes first. These benefits pay for things like medication, chiropractic care, physiotherapy, psychological treatment, rehabilitation aids and anything else that can help you recover which is reasonable and necessary as a result of the accident.

If your injuries are deemed to be catastrophic, these benefits increase dramatically.

If you are determined to be within the Minor Injury Guideline (MIG) you will only have \$3,500 in medical and rehabilitation benefits. You should seek advice immediately to determine if you have injuries or pre-existing conditions that would take you out of the MIG. The lawyers at Hooper Law can help you with these details.

#### **Other benefits:**

- Death and Funeral benefits, which pay \$25,000 to an accident victim's spouse, \$10,000 to each of the victim's dependants, \$10,000 to the victim's caregiver, and \$6,000 for funeral expenses.
- Expenses of family members who visit during treatment or recovery, including meals, mileage, travel and accommodation.
- Lost education expenses for students, to a maximum of \$15,000.
- Additional coverage you may have purchased additional benefits with your insurance.

### **Refusal of Benefits – The LAT**

If your insurance company refuses to pay certain benefits or expenses, the next step is to take your case to the License Appeal Tribunal which is a body that will decide your entitlement to any particular benefit. We can represent you in this dispute.

## **2. Compensation from the At-Fault Driver**

If you decide to sue the driver who injured you, you must tell them in writing within 120 days. You also have to meet certain requirements for your case to be successful.

- You must prove that you have a serious and permanent impairment of an important bodily function which is physical, psychological or mental in nature.
- You have to prove liability; i.e. that the other driver caused the crash. The driver and their lawyer might say you are partly to blame for the accident, or that your injuries were caused by your failure to use your seatbelt.

As your car accident lawyer, we will fight to prove liability and get you the compensation you deserve. This may include additional compensation for brain injuries or spinal injuries that may be a result of your motor accident injury. There are four types of compensation you may be entitled to:

**Pain and suffering and loss of quality of life (general damages)** – These damages are intended to compensate you for your past, present and future pain, suffering, and loss of quality and amenities of life. In Ontario, there is a broad range of amounts for these types of damages, from very small amounts for someone with minor injuries, to an indexed cap of approximately \$400,000 for someone who is brain-injured and quadriplegic.

**Family Law Act Claim for loss of care, guidance and companionship** – This type of compensation is for family members who have experienced a loss of care, guidance and companionship, or have lost money due to another family member's injury. Compensation for an eligible family member is subject to an indexed deductible which is currently \$19,778.27, if the damages awarded are under a certain amount. Compensation for family members is unfortunately very low in Ontario and often does not rise above the deductible.

**Pecuniary damages (loss of wages)** – Often the most significant monetary loss is your loss of income in the past, present and future. If you are unable to work (temporarily or for the rest of your life), return to work but make less money, or fail to get employment or promotion because of your injury, you may be entitled to this type of compensation.

**Out-of-pocket expenses and future care costs** – These damages compensate you for any expenses caused by ongoing medical difficulties, both expenses you have already incurred and expenses that you expect to incur in the future, including expenses like over-the-counter prescription medication, rehabilitation devices, parking and mileage for doctor appointments, care and treatment, housekeeping and home maintenance.

Our 98% success rate in court proves that we'll fight for you. We've not only won settlements and court cases for motor vehicle accidents over our 20 year history, we've received one of the biggest settlements in the history of Canada. Contact us today for your free consultation.

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**Hooper Law**

128 Hughson Street North  
Hamilton, ON L8R 1G6

fightforyou@hooperlaw.ca  
www.fightforyou.ca

905.522.8002