



## ACCIDENT FACTSHEET

### AN ACCIDENT CLAIM

You have had an accident and wish to make a claim. These notes are intended to give you a very general idea of what is involved under English Law in respect to such a claim.

#### 1. LIABILITY

For a successful claim against the other party, it is not sufficient that an accident has occurred and you have been injured. The extent and seriousness of that injury makes no difference.

You can break your neck and still not necessarily have a viable claim. What is essential is to show that the other party is at fault and therefore liable. In other words, **you must be able to point the finger of blame in some way at the other party.**

This may involve negligence or it may involve breach of some duty towards you which is imposed upon the other party by statutory law.

If you cannot show any blame, then you will not be able to claim. However, it is possible still to claim even if blame is shared. If there is a fault on the part of the other party but you have also been negligent in some way, the amount of claim will be reduced by way of **CONTRIBUTORY NEGLIGENCE.**

The reduction will be expressed as percentage and may range between 10% and 50% depending upon the extent of your contributory negligence.

ESTABLISHING LIABILITY AGAINST THE OTHER PARTY IS THUS THE FIRST STEP.

#### 2. QUANTUM.

Once Liability has been established against or accepted by the other party, then the second step is to decide quantum. Quantum means the amount which your claim is worth and is divided into two general categories.

##### (a) GENERAL DAMAGES

General damages represent the amount to be paid for your injuries. They will cover pain and suffering in the past and compensation for any degree of permanent disability in the future.

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The level of general damages is essentially based upon the awards which have been made by the courts in respect of similar injuries.

### **(b) SPECIAL DAMAGES**

Special damages represent money which you have lost or money which you have had to spend as a result of the accident.

You are entitled to be put back into the financial position in which you would have been if the accident had not happened.

Your claim for special damages might include such items as:

- Loss of earnings
- Cost of ruined or damaged clothing
- Travelling expenses
- Prescriptions
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It is important that you keep a full and accurate note of all your losses which you sustain and expenses which you incur. Any relevant receipts and other documents should be retained.

ASSESSING QUANTUM IS THE SECOND AND FINAL STEP.

### **3. PROCEDURE.**

There are only two basic ways in which a successful claim can be resolved:

- (a) by agreement
- (b) by court order

We will start out trying to resolve your claim by negotiation and agreement. This is much quicker than relying on court procedures.

However, if liability is denied or insufficient progress is being made in negotiation, court proceedings may well have to be issued. These will usually be in the County Court (all claims with value under £50,000 have to be started in the County Court).

It is not appropriate in these general notes to go into any detail about court procedures. We will discuss these with you and explain them if and when the need arises.

### **4. TIME.**

ACCIDENT CLAIMS TAKE TIME.

Please remember this. The other parties representatives will have to carry out their investigations. Medical evidence will have to be

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obtained. Negotiations may ensue. These matters alone can take several months.

Nevertheless, we will do everything we can to try to ensure that the progressing of the claim takes as short a time as possible in your particular circumstances.

**Please note that this fact sheet should only be used as a general guide only. The advices given do not relate to specific circumstances and we strongly recommend that you make an appointment to see us.**

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