

Introduction

Aim of Guidelines

The *Guidelines* are an aid in the assessment of compensation to which a person (claimant) may be entitled when injured due to the fault of another (respondent).

The *Guidelines* should also encourage negotiated settlements between parties where it is accepted that the injured party has an entitlement to compensation.

Levels of compensation

The *Guidelines* contain a list of injuries and related values, distilled from reported cases, to give an indication as to the likely range of compensation for a particular injury.

While the guide has been graded to reflect the severity of injury sustained, it is recognised that even within these grades the actual degree of severity can vary considerably and the same injury can have different consequences for different people.

The *Guidelines* only deal with compensation for pain and suffering. The claimant may also be entitled to claim under other headings for actual financial losses.

Categories of injury

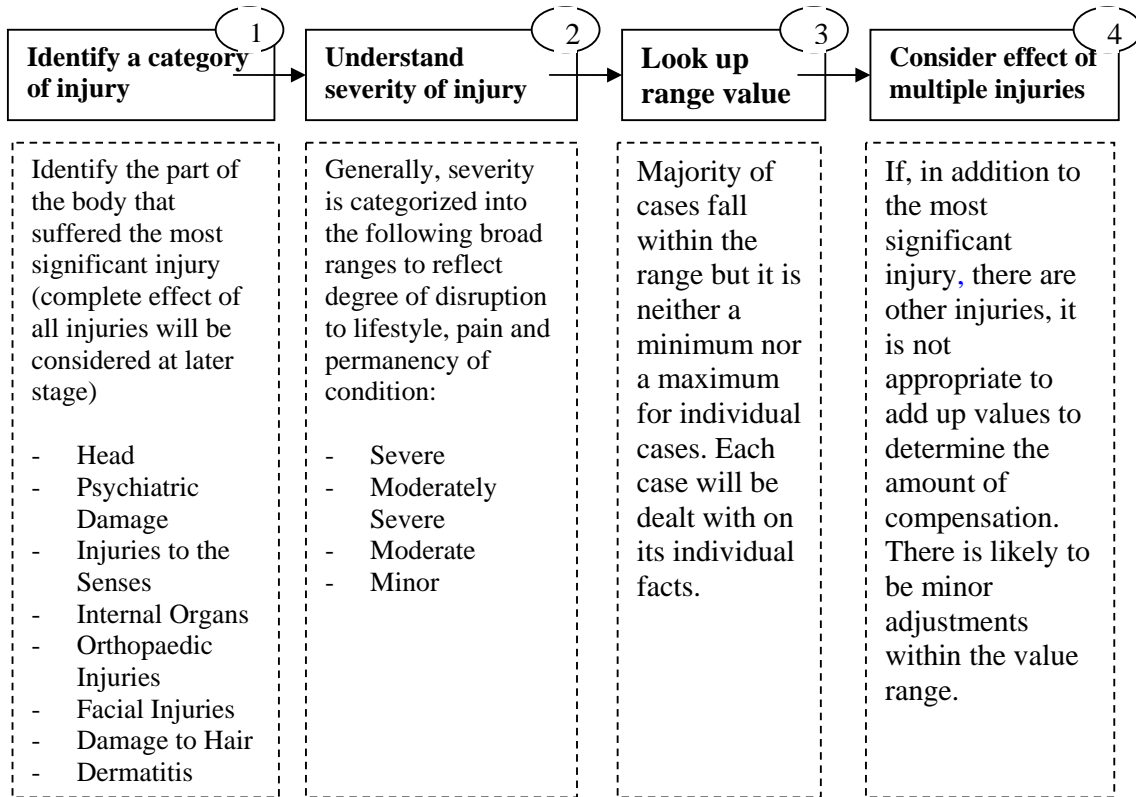
The categories of injury are based on the English *Guidelines for the Assessment of General Damages in Personal Injury Cases*. Compensation may be payable for injury types other than those that appear in this Guidelines.

The content of the *Guidelines* will be kept under review.

How assessments are calculated

The *Guidelines* only reflect compensation for pain and suffering which is supported by appropriate medical evidence.

Follow the steps set out below to understand what assessment range may be appropriate for an injury.



NECK INJURIES

Amongst the various types of neck injuries suffered, one of the most common is whiplash injury to the cervical spine. There are different levels of severity of whiplash injuries with some causing inconsiderable pain and restriction of movement of the neck while others resolve within a few weeks with no further disabilities.

The *Québec Task Force (QTF)* was a [task force](#) sponsored by the [Société de l'assurance automobile du Québec](#), the public auto insurer in [Quebec, Canada](#) and QTF submitted a report on whiplash-associated disorders in 1995. The report was updated in January 2001 and contains a classification of the various grades of whiplash associated disorders in terms of severity.

QUEBEC CLASSIFICATION OF WHIPLASH-ASSOCIATED DISORDERS

Grade	Clinical Presentation
0	No neck pain, stiffness or any physical signs are noticed
1	Neck complaints of pain, stiffness or tenderness only but no physical signs are noted by the examining doctor
2	Neck complaints and the examining doctor finds decreased range of motion and point tenderness in the neck
3	Neck complaints and neurological signs including decreased or absent deep tendon reflexes, weakness or sensory deficits.
4	Neck complaints with fracture or dislocation or injury to the spinal cord.

Strictly speaking, injuries involving fracture or dislocation of the cervical spine are no longer termed whiplash associated disorders. This was similarly conceded by QTF in their report despite including the same under Grade 4 whiplash injuries.

In cases where fractures and/or dislocation of the cervical spines are concerned, the quantum of the award will depend on the following factors:

- (i) Which part of the cervical spine was affected, e.g. C1, C2 etc as the higher the part of the cervical spine affected, the more severe the disabilities likely to be suffered;
 - (ii) Extent of the disabilities suffered as a result of the injury;
 - (iii) Whether the disabilities are likely to improve in the future with medication and physiotherapy;
 - (iv) Chances of finding employment in the pre-trauma capacity;
 - (v) Whether the person is able to cope with the activities of daily life;
 - (vi) Risk of cervical spondylosis developing in the future; and
 - (vii) Whether there will be an increased vulnerability to future trauma.
- (a) Severe
- (i) Cases in this category include fractures and/or dislocation of the cervical spine affecting the spinal cord resulting in incomplete paraplegia, permanent spastic quadriparesis, little/no movement in the neck and severe, headaches. There is also a risk of complete paralysis in the event of another trauma to the cervical spine. As the disabilities are debilitating, the person is unlikely to find employment and he also has difficulties coping with the activities of daily life and may be heavily dependent on a caregiver. \$100,000 - \$160,000
 - (ii) Cases in this category fall short of the severity in (a)(i) above but there are significant disabilities in the long term, such as severely restricted movement of the neck, chronic pain radiating to the limbs. The chances of finding employment are slim although the person is able to cope with the activities of daily life independently. \$70,000 - \$100,000
 - (iii) Cases in this category involve severe immediate neurological symptoms resulting in \$50,000 - \$70,000

difficulty in movement, considerable pain in the cervical spine area as well as pain radiating to the lower limbs. There are significant disabilities where the neck movement is severely restricted despite physiotherapy and also an increased vulnerability to future trauma. However, the severity of the disabilities is less than (a)(i) or (a)(ii).

- (iv) Severe damage to soft tissues and/or ruptured tendons such that movement of the neck is affected. The person continues to suffer disabilities in the long run. \$30,000 - \$50,000

(b) Moderate

- (i) Severe whiplash injury classified as Grade 4 whiplash injury. There is serious limitation of neck movement, neurological deficits with recurrent pain radiating to the limbs and headaches. There is not only an increased vulnerability to future trauma but there is a high risk of developing cervical spondylosis with a possible need for cervical spine fusion surgery in the near future. \$15,000 - \$30,000
- (ii) Moderate whiplash injury classified as Grade 3 whiplash injury. The person suffers from considerable pain, restriction of neck movement with neurological deficits. Recovery takes a substantially longer period and there is also an increased vulnerability to future trauma. There is a likely risk of degenerative changes occurring in the long run due to the weakened cervical spine. \$8,000 - \$15,000

(c) Minor

- (i) Minor whiplash injury and soft tissue damage classified as Grade 2 whiplash injury. The symptoms take longer to resolve than in (c)(ii), i.e. about 2 years and there are residual disabilities on a long term basis. \$7,000 - \$8,000
- (ii) Minor whiplash injury and soft tissue damage classified as Grade 1 whiplash injury. The symptoms of neck pain, tenderness and stiffness resolve completely between a few

weeks and 2 years. An award in the higher range is appropriate where the symptoms take a longer time to resolve.

- (iii) Neck sprain not amounting to Grade 1 whiplash injury in which the pain resolves in a few days with no residual disabilities. \$1,500-\$3,000