

# How much is a personal injury claim worth?

A reasonable question most people have when considering a personal injury claim is how much compensation they can expect.



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Kirstie Haslam, partner at DSC Attorneys, says that this will differ significantly from one claim to another, depending on the nature of the claim and all surrounding circumstances. However, she explains that it can be helpful to have an idea of previous and average claim values.

## Road accident claims

In South Africa, the Road Accident Fund (RAF) is a state-supported insurance fund that's responsible for providing financial compensation to those seriously injured in accidents on South Africa's roads.

“If you're injured in a road accident for which you weren't solely responsible, you can claim compensation for medical expenses, loss of earnings and, in specific circumstances, general damages resulting from the accident,” Haslam explains. “Dependants of those injured or killed in road accidents can also claim loss of support and, in the event of a fatality, funeral costs.”

According to the RAF's annual report for 2017:

- the average value paid out per claim was R117,059
- R645,832 was the average pay-out for loss of earnings
- R390,004 was the average pay-out for general damages
- R15,030 was the average pay-out for medical expenses.

However, Haslam says that depending on the circumstances, the compensation awarded can be very much higher. She cites recent examples that include an award of over R5 million to a woman seriously injured in a car accident, and an award of over R7 million to a vehicle passenger who suffered a head injury and spinal fracture.

She says that typically, the compensation awarded to those with proper legal representation is much higher than that for other claimants.

## **Medical negligence and malpractice claims**

Successful claims against medical practitioners or hospitals can result in compensation ranging from a few thousand rand to multi-million rand payouts.

In Gauteng alone, the Health Department has paid out over R1 billion to settle 185 medical negligence cases since 2015.

For example, Haslam says that the Department paid:

- R769 million to settle 50 claims involving brain-damaged babies
- R89.2 million to settle just four cases involving brain damage or cerebral palsy caused by brain damage
- R514 million to settle 44 claims for negligence cases at just one hospital (Chris Hani Baragwanath).

Haslam explains that among the many factors affecting the compensation that's awarded in medical negligence cases are the extent and severity of the injury or harm suffered; medical costs, including likely future costs of treatment, rehabilitation and on-going support; and impact on the victim's earning potential.

"Compensation may also be affected by the nature of the negligence or malpractice involved, the party against which the claim is made and any associated history of claims for similar cases," she adds.

## **Other personal injury claims**

If you're seriously injured as a result of negligence by another party, Haslam says that you may be able to claim compensation. "For example, you may be able to claim compensation from the owner of a private property, the owner of a shopping centre or, in the event of injury in a public space, the local municipality."

She adds that the value of a personal injury claim payout can vary hugely, depending on factors like what occurred, the nature and likely long-term consequences of the injury and recent payouts awarded by the courts for similar claims.

For example, did the injury result in a permanent disability? Did it render you unable to return to work and support your family? These are all factors that will be taken into consideration.

## **Getting proper legal representation**

For any personal injury claim, Haslam says that it is vital to get proper legal representation from an attorney who specialises in the relevant claim type.

"Attempting to file a claim without expert legal assistance isn't advised," she adds. "You may end up with a pay-out that is

much lower than your claim is worth or find that your claim is dismissed for technical reasons or insufficient preparation and evidence."

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