



**CUMMINGS
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BARRISTERS & SOLICITORS

Sources of Compensation Available *Following A Motor Vehicle Collision*

1. Property Damage

After the initial treatment of any injuries sustained, the first concern most people have following a collision is dealing with the damage done to their vehicle. This will involve obtaining funding for any necessary repairs to the vehicle or, if the vehicle is written off, obtaining a lump sum payout for the value of the vehicle.

If you have collision coverage on your vehicle your insurer will be able to assist you. If you are at fault for the accident, they will pay for your property damage, less your deductible. If another party is at fault, and that party has insurance, your insurer will either pay for the property damage to your vehicle less your deductible and recover that amount from the at fault driver's insurer, or else refer you to deal directly with the at fault driver's insurer. In the first instance, your deductible should be reimbursed by the at fault driver's insurer and in the second instance you should not have to pay a deductible.

If you do not have collision coverage on your vehicle and you are not at fault for the collision, the at fault driver's insurer will be responsible for covering your property damage. It should be noted, however, that if you do not have collision coverage on your vehicle and the collision is caused by someone who does not have

insurance or by some unidentified party, there will be no coverage available to you for the property damage to your vehicle.

2. Medical Expenses

If you are injured in a collision, there are often expenses associated with the treatment of your injuries, such as ambulance bills, prescriptions and any physiotherapy or other treatments recommended by your doctor.

If you have a "minor injury" and are being treated in accordance with the *Diagnostic and Treatment Protocols Regulation*, your treatment expenses will be covered by your Section B insurer in accordance with that regulation.

If your injury is not a "minor injury" or if you have a "minor injury" and are not being treated in accordance with the *Diagnostic and Treatment Protocols Regulation*, the first place to look for coverage of these expenses is through any private medical insurance you may have either personally, through your employer or through an immediate family member. If there is no private insurance available, or if that private insurer does not cover 100% of your medical expenses, you should look to your Section B insurer (see discussion on Section B benefits in the Standard Automobile Policy section of this brochure) to cover any expenses for which you are not reimbursed.

If you do not have private medical insurance and you have exhausted all of the benefits available to you under the Section B portion of your automobile policy, you may be able to obtain coverage for further medical expenses by making an application to the Motor Vehicle Accident Claims Fund. This is a fund set up by the Government of Alberta to assist people who are injured in motor vehicle collisions and are in need of medical treatment, but do not have any other form of insurance coverage for medical expenses available to them.

If the collision was caused by the negligence of someone else, any expenses not covered by one or more of the above sources can be claimed in a personal injury action brought against the at fault party or parties. In bringing a personal injury claim it should be noted that in some circumstances you will have an obligation to put forward a claim on behalf of any insurer who provided you with medical benefits so that the insurer can be indemnified by the at fault party or parties for all of the expenses they incurred on your behalf.

Wage Replacement/

3. Disability Benefits

Often, as a result of injuries sustained in a collision, people are unable to return to work for a period of time and therefore can suffer extreme financial hardship. Fortunately, there are several sources of compensation available for victims of motor vehicle collisions who have suffered a loss of income as a result of their injuries.

Again, the first place to look for coverage for any loss of income that is being incurred is through any private insurance you may have either personally, through your employer or through an immediate family member.

If there is no private insurance available, or if you are not being fully reimbursed for your lost income by a private insurer, you should look to your Section B insurer (see discussion of Section B benefits in the Standard Automobile Policy section of this brochure) for further wage replacement benefits.

Other possible avenues that can be explored in relation to disability benefits are Employment Insurance - Disability Benefits, Canada Pension Plan - Disability Benefits and Assured Income for the Severely Handicapped (AISH) Benefits.

As with medical expenses, if a personal injury action is brought against the party or parties responsible for the collision, you will be entitled to claim for any loss of income that you have experienced as a result of the injuries sustained by you in the collision. In some circumstances, you will also have an obligation to put forward a claim on behalf of an insurer who provided you with wage replacement or disability benefits so that the insurer is indemnified by the at fault party or parties for the benefits that they had to pay to you.

4. Death Benefits

If a member of your immediate family is killed in a motor vehicle collision, compensation may be available through private insurance held by the deceased, either personally or through his employer, or by an immediate family member at the time of the collision. In addition, there are death benefits available through the deceased's Section B insurer (see discussion of Section B benefits in the Standard Automobile Policy section of this brochure).

Finally, a wrongful death claim may also be brought against any party or parties responsible for the collision which led to the death of the family member.

5. Workers' Compensation Board

Under the Workers' Compensation legislation in Alberta, if you are someone who comes within the definition of a "worker" at the time of the collision, you may qualify for medical and disability benefits. Inquiries as to whether or not you qualify for these benefits should be directed to your employer and/or the Workers' Compensation Board.

In addition to medical and disability benefits, death benefits may also be available to the spouse and dependent children of a "worker" who was killed in a motor vehicle collision while in the course of his or her employment.

In most situations, even if you qualify for WCB benefits as a result of injuries sustained in a motor vehicle collision, you will also be able to bring a personal injury claim against the party or parties responsible for your injuries. There will, however, be some circumstances where, under the provisions of the Workers' Compensation Act, you will be covered by WCB benefits but will be precluded from bringing a personal injury action.

6. Your Personal Injury Claim

In addition to all of the above sources which may be available to you, if you are injured in a collision as a result of someone else's negligence, you may bring a claim for personal injury damages against the at fault party or parties.

Although every personal injury claim will be different, some of the main categories of damages under which you may be entitled to receive compensation are:

- a. General Damages for Pain, Suffering and Loss of Amenities of Life;
- b. Past Loss of Income;
- c. Future Loss of Income;
- d. Past Cost of Care;
- e. Future Cost of Care;
- f. Past Loss of Housekeeping Capacity;
- g. Future Loss of Housekeeping Capacity;
- h. Miscellaneous Out of Pocket Expenses;
- i. Loss of Consortium (*available to the spouse of an injured person where the marital relationship has been seriously disrupted*).

In most situations, the at fault party will have insurance on their vehicle and the damages you are entitled to will be paid by their insurance company once a settlement has been reached or a Judgment has been obtained. In situations where the at fault party was either uninsured at the time of the accident or has not been identified, payment of any damages will usually be made by the Motor Vehicle Accident Claims Fund.

In serious cases, there are sometimes insufficient insurance proceeds available through the at fault driver's insurer or through the Motor Vehicle Accident Claims Fund to cover the damages that you are entitled to. In these situations, further compensation may be available from your own insurance company if at the time of the collision you had an SEF 44 Family Protection Endorsement on your automobile policy (*see discussion on Endorsements in the Standard Automobile Policy section of this brochure*).