

## Economic Recovery after TBI: How Victims and Families Get Back on Their Feet After Serious Injury

*Economic recovery* is something victims and their families are often unaware they're entitled to before retaining legal counsel to represent them after an accident.

After suffering an accident as severe as a *traumatic brain injury*, there is a plethora of reasons one may be able to obtain compensation. Depending on the severity of the TBI and the prognosis made by medical professionals (known as "expert witnesses" in a court of law), and any other injuries suffered as a result of the accident, victims may qualify for a variety of legal compensation. A board certified civil trial attorney is the best way for victims and their families to find out what they're entitled to under the law.

Without an experienced attorney, victims and their families may be missing out on a chance at **economic recovery**. This term is broad and covers an array of services and compensation within what's known as "damages". Damages can be obtained after an injury or wrongful death caused by the negligence or recklessness of another. In cases of wrongful death, family members may be entitled to this same chance for economic recovery.

An attorney can explain your options and how the process of seeking damages works. There is no dollar amount that can replace a lost loved one after a wrongful death or restore the quality of life to a gravely injured traumatic brain injury victim, but financial compensation after an accident can relieve the burden of medical expenses, lost wages, child care, and in the worst cases funeral expenses.

In this article we'll explain the types of economic recovery available to victims and their families and how a personal injury attorney obtains these damages from a legal standpoint. As with any determination of damages, the jury must have substantial proof of what the accident or wrongful death is "worth" to be able to award compensation on behalf of the victim. As previously stated, no dollar amount can replace a lost loved one, and determining damages is simply a necessary legal process that attorneys go through to seek justice for an injured client and their family.

## Pain and suffering: you've heard the term, but what does it really mean?

Personal injury attorneys use the term "pain and suffering" frequently. It's simply a legal term that covers many aspects of a personal injury lawsuit. However, the real meaning behind the term has become convoluted or lost in the necessary legal jargon that surrounds every lawsuit. So, what is **pain and suffering** simplified?

Pain and suffering itself is not only determined by the physical aspects of the injury, for instance a TBI which has a vast amount of serious physical symptoms. The court must place a monetary value on the victim's suffering to determine the damages to be awarded. To do this a jury takes into consideration the extent of the injury and the definitiveness of future pain (both physical and emotional anguish), how severe this pain will be long-term, and how long the victim may be in pain.

## Economic recovery includes future medical expenses

After an accident that leaves a patient hospital-bound for weeks or even months at a time, hospital costs and medical bills start to pour in. There's a limit to what even the best health insurance will cover, and this can

cause families severe financial distress, leaving them no choice but to file for bankruptcy, sell their homes or cars, and try their best to make ends meet.

In certain circumstances, when you obtain an experienced trial attorney after a serious accident that requires extensive medical treatment, surgery, and procedures, you will be entitled to what's called a *LOP* (Letter of Protection). A Letter of Protection as it pertains to personal injury can be explained as: A Letter of Protection is a document sent to a medical professional by an experienced attorney who represents an injured victim. A Letter of Protection can be used in cases of motor vehicle accident, motorcycle accident, slip and fall, and even certain work-related injuries. This LOP guarantees the medical provider will be paid for his or her services from the settlement or damages obtained after a verdict is rendered in the lawsuit.

Before a verdict is rendered and a judge determines the amount of damages based on future medical expenses will be awarded, he or she will look at hospital expenses, nursing care after hospital discharge, outpatient care such as follow-up doctor visits, any ambulance fees, emergency room fees, and other miscellaneous expenses incurred as a direct result of the accident.

## **Mental trauma: it's just as bad as the physical (and sometimes worse)**

The court always takes the mental trauma (PTSD; post-traumatic stress disorder) into consideration when determining damages on behalf of a plaintiff. Mental trauma can include any terror, fear, nightmares, flashbacks or worry, feelings of lost dignity and grief the victim may be feeling about the accident at any given time. If these feelings are determined to be consistent and a cause of further suffering to the victim, they will be awarded damages accordingly.

## **Loss of quality of life: TBI can leave victims bed-bound, isolated**

When a victim suffers a traumatic brain injury due to someone else's careless actions, it can reduce or even eliminate their quality of life. The ability to enjoy simple things such as spending time with family and friends, eating a meal, or the ability to travel (if that was a prior hobby of the victim before their ability to ambulate was reduced) are things that a judge and jury will consider extensively when determining the damages to be awarded to a victim.

The loss of quality of life isn't limited to hobbies the victim once enjoyed and can no longer pursue. It also includes Activities of Daily Living (ADLs) that the victim can no longer do. Activities of Daily Living are simple tasks that able-bodied people often don't even think about doing. The victim may not be able to feed themselves, bathe unassisted, or get around their own home without the help of a home health aide. If this is the case, their quality of life has been nearly eliminated and they may find themselves bed-bound, isolated and alone.

A judge and jury will consider these factors and the losses that are incurred with them, as well as the expense a family incurs when forced to hire care aides for the victim for their own safety and wellbeing.

## **Lost wages, lost future earnings add up and leave families in financial ruin**

After suffering a TBI, compensation that takes lost wages and the potential for future earnings into consideration will be determined. In order for a judge and jury to make this determination, the plaintiff and their counsel must prove that their ability to earn future income has been seriously diminished or at the least, extensively impaired by the injury sustained. The court will take very specific factors into consideration.

**These factors can include but are not limited to:**

- The plaintiff's age
- Life expectancy of the plaintiff (had they not become injured and following the accident that caused the injury)
- Occupation, special talents the victim had that earned them income, skills the victim had that they can no longer utilize
- The plaintiff's job experience and their specific training in the job they performed prior to sustaining the injury

## **Help around the house: when victims can no longer care for themselves**

As previously explained, victims often need help around the home or with Activities of Daily Living after they are discharged from the hospital. After a traumatic brain injury, it's difficult for victims to get back on their feet. They may be experiencing dizziness, blurred vision, tremors in their hands, frequent and debilitating migraine headaches and a number of other symptoms they never experienced prior to the injury.

A traumatic brain injury can cause a once healthy individual to lose their autonomy, and thusly, their ability to function in everyday life. Victims families may need to hire a home health nurse to care for them around the clock, in the event that they become prone to dizziness and falling when standing unassisted.

They may need someone around the home to assist with preparing healthy meals or making sure things like laundry and house cleaning are seen to because they can no longer safely perform those tasks themselves. In the most severe cases, a victim becomes wheelchair bound and cannot transfer to and from bed, to the toilet, shower, or living room sofa without the help of an aide.

All of these things are taken into consideration when presented by an experienced attorney in front of the judge and jury.

## **Total and permanent disability: what's considered "permanent" from a personal injury perspective**

Obtaining these kinds of damages requires the plaintiff to have sustained a serious accident that renders them severely injured with little chance of total (or any) recovery. A medical expert such as a doctor must examine the plaintiff and determine that the victim and their family's claim of being permanently disabled is valid.

In the case of traumatic brain injury, a doctor that examines the plaintiff and acts as an expert witness during the trial can aid in explaining to the court that the victim has little to no chance of returning to the life they had prior to the accident.

Contact us to schedule a complimentary consultation. There's no obligation. Take the first step and call us today: (877) 529-0080

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