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## **I'VE BEEN INJURED IN A CAR ACCIDENT – AM I ENTITLED TO COMPENSATION?**

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There are potentially 3 types of compensation available if you have been injured in a car accident:

1. Statutory Accident Benefits paid by your own auto insurer;
2. Collateral Benefits paid through a group insurance plan or private insurer;
3. Damages paid by the other driver's auto insurer through a tort claim or lawsuit.

### **Statutory Accident Benefits (“SABs”)**

These benefits are often referred to as “No Fault Benefits”. They are available through your own auto insurance company and you can apply for them even if you were entirely at fault for the accident. There are many different benefits that you might qualify for including medical and rehabilitation benefits (to pay for treatment), income replacement benefits (if you are unable to work), attendant care benefits (to assist with personal care), housekeeping and home maintenance benefits and caregiver benefits (if you are unable to care for a dependant). There are specific tests that you must meet in order to qualify for these benefits but an application should be made to your insurance company nonetheless.

*Significant Changes to the SABs:* As of September 1, 2010, the SABs have been dramatically reduced. Certain benefits that were once part of the standard auto insurance policy are now optional and need to be purchased as an extra premium. Unfortunately, most people are unaware of these changes and as a result, are not taking advantage of the optional benefits available (which are often relatively inexpensive). You should speak to your insurance broker in order to fully understand the kinds of benefits available.

### **Collateral Benefits**

You might have benefits available through either a group insurance plan at work or a private insurer. For example, your work insurance plan might include short term or long disability insurance or coverage for certain kinds of treatment or therapy. In the insurance world, these benefits are called “collateral benefits”. Before your auto insurer will pay statutory accident benefits, you have to apply for all benefits available from these other sources. For example, if you have coverage through your work for physiotherapy, you have to exhaust that coverage before your auto insurance company will pay for your physiotherapy care.

### **Tort Claim - Suing the Other Driver**

Whether you have a claim against the other driver depends on who was at fault for the accident. If the other driver was at fault, you may be able to sue the driver for compensation depending on the seriousness of your injuries. If you were at fault for the accident, you generally have no claim against the other driver. If the other driver was only partially at fault, you might still have a claim but your award would be reduced by the degree of fault apportioned to you. It is also important to remember that other factors may have caused or contributed to the accident (eg. poor lighting on a particular road, a poorly designed intersection etc.). This is where consulting with a lawyer might be particularly helpful since you might not think about other potential defendants to a lawsuit.

*What Can I Claim?* Depending on the seriousness of your injuries, there are many different kinds of damages that you might claim, including damages for “pain and suffering”, loss of income and out-of-pocket expenses. Certain family members may also have a claim for loss of care, guidance and companionship, which is intended to compensate those family members for the negative impact that the accident has had on the relationship between you and that family member.

Insurance law is a complicated maze of rules and procedures, which can often be overwhelming for someone who has just been involved in a car accident. The insurance forms themselves can often be confusing. It is important to speak with a lawyer as soon as possible following the accident so that you can ensure you are on the right track and have applied for all available compensation.