

Accidents will happen! When they happen it is important that you have the correct advice. When Morgan McManus take on a case we encourage our clients to get on with their lives - while we get on with the legal process.

### **What do I need to know about the compensation claims process?**

You may have many questions about the compensation claims process, but the main ones you probably need answered immediately are:

- **Do I have a claim?**
- **Road Traffic Claims**
- **What happens if the other party is uninsured?**
- **How much will it cost me to make a claim?**
- **When should I claim?**
- **How long have I got to make a claim?**
- **What must I prove?**
- **What is meant by liability?**
- **How much compensation will I receive?**
- **Why choose Morgan McManus Solicitors?**

This guide has been designed to give you basic advice about the claims process. You will however need to speak to one of our very helpful staff who will be happy to deal with immediate questions which will arise. You can contact us for more information at 0035347 51011. Alternatively you can complete our online Compensation Claim Form on our website [www.morganmcmanus.com](http://www.morganmcmanus.com) if you think you have suffered an accident or injury, or developed a disease through exposure to hazardous substances, for which you are entitled to compensation.

### **What is Compensation?**

Compensation is a financial award and can be paid for all sorts of reasons including:

- to recognize the injuries, physical and mental, caused by someone's negligence or as a result of a violent crime
- in certain circumstances, for past or future lost earnings or other expenses
- for losses you have suffered because a person or organisation has broken a contract they have made with you
- to recognize the fact that someone has ruined the enjoyment of your property by behaving in an unreasonable way e.g. a tree root from a neighbour's garden has damaged your house or the owners of a neighbouring factory allow noisy machinery to interfere with your sleep.

[www.morganmcmaus.com](http://www.morganmcmaus.com)

### **Do I have a claim for accident compensation or other work-related illnesses?**

Unfortunately, it is a fact that lots of people are injured every day in various different types of avoidable accidents, at work, in the home, or just going about their daily activities. If you suffered an injury in an accident which was not your fault, you may be able to make a claim for the pain and suffering caused to you, together with any losses and expenses such as medical costs or loss of earnings.

With all personal injury compensation claims, you need to prove that your injury, illness or disease was caused as a result of the negligence of another party (for example your employer, another driver or a local council). Once you contact Morgan McManus we will help you to compile your evidence and present it to the third party insurers.

Accidents at work, for example include instances where an employee has received inadequate training for a job. Alternatively, there may have been a lack of safety equipment provided by the employer or there may have been faulty or dangerous machinery involved.

It is quite common for people to develop an illness or disease after coming into contact with harmful substances in their workplace. If your employer has exposed you to a potentially harmful substance, such as asbestos or latex and you have developed an illness or disease, you may be able to make a personal injury claim for compensation.

### **Road Traffic Claims**

#### **Driver Injury Compensation Claims**

If you were the driver involved in an accident that was caused by another vehicle, you can claim for loss and injuries. You can also claim if the accident was caused by the road being in a dangerous condition. The Highways Authorities / County Council have a duty to maintain the roads. If the accident was caused by a pedestrian or a cyclist you could still make a claim, but it is worth noting that pedestrians and cyclists are not required to have insurance cover and may therefore be unable to pay any damages. If the accident was partly your fault and partly the fault of another driver, you may still be eligible for compensation for your injuries.



**Brian Morgan**  
Solicitor

If the accident was solely your own fault you cannot make a claim. However, the value of your car or costs of repairs may be covered by your own insurance policy.

### Passenger Injury Compensation Claims

In nearly all cases, a car or motorcycle passenger injured in an accident can make a successful claim for damages. The passenger is usually a completely innocent victim of road accidents. Car passengers may have their damages reduced by up to 25% for not wearing a seat belt. Their claim may also be reduced if they knew, or ought to have known, that the driver was unfit to drive through drink or for any other reason.

### Whiplash Injury Compensation Claims

Whiplash is one of the most common forms of injury experienced by victims of car crashes. It is caused by a sudden and unexpected jolt - for example your car being hit from behind - which forces your head and neck to be violently thrown backwards. The result can cause prolonged periods of suffering. Common symptoms are neck pain, stiff neck, headaches, shoulder pain and lower back pain. If you have suffered whiplash as a result of an injury that was not your fault, you are eligible to make a claim against the driver responsible.

### Other types of accidents.

For information on other types of accidents please visit our website and go to *Accident Claim Types*.

## What happens if the other party is uninsured, untraced or a foreign motorist?

If the other party has no insurance in force at the time of the accident, or was not properly identified, then your claim will need to be referred to The Motor Insurers Bureau (MIB), and it will investigate and deal with the claim. The MIB was set up to help victims of road traffic accidents in these circumstances. You are required to report the accident to the Police/Gardai as soon as possible.

If your claim needs to be referred to the MIB, after we've exhausted all lines of enquiry, Morgan McManus Solicitors will discuss it with you in more detail.

## How much will it cost me to make a claim?

In the normal course all of your legal fees will be recovered from the person responsible for your injury, or their insurers. Where however you are making a claim in the Republic of Ireland, which necessitates the prior submission of a claim



Dr Dolores McMahon

**MORGAN  
McMANUS  
SOLICITORS**



through InjuriesBoard.ie (previously known as the Personal Injuries Assessment Board (PIAB)) you should phone us to discuss your possible liability for costs. The law on this aspect of the InjuriesBoard.ie claims is continually changing and therefore subject to advice, dependant on the circumstances of your claim.

## When should I claim accident, injury or illness compensation?

It is always advisable to make your claim as soon as you feel able to do so. To help your case, you should report the accident to any appropriate authority, such as the local Council, your employer or the owner of any property where the accident took place. If possible for instance in a work accident situation, make a note of your accident in the accident book and also take names and addresses of any witnesses to the accident. Where possible, we would always recommend that you take photographs to demonstrate any defect or hazard which was responsible for your accident or injury (use a ruler if necessary to show depth or height of the hazard).

### Reasons why a Claim should be submitted without delay.

There are other good reasons why you should submit any claim quickly:

- You are more likely to recall the circumstances of your accident while it is still fresh in your mind
- The sooner we have the details of your claim, the sooner we will be able to advise you whether you have a claim and, if you do, start the work of gathering evidence and negotiating a settlement with the insurance company of the person or organisation that harmed you
- If your accident occurred in the Republic of Ireland and we advise that Proceedings should be issued in that jurisdiction, it is necessary, under Section 8 of the Civil Liability and Courts Act 2004 to issue a Letter before Action within 2 months of the date of the occurrence of the accident.

**www.morganmcmanus.com**  
Morgan McManus appreciate your referrals

- Again, if your accident occurred in the Republic of Ireland, before you can issue Court Proceedings, we will be required to submit on your behalf your Claim in writing to InjuriesBoard.ie (previously known as the Personal Injuries Assessment Board), commonly known as PIAB, which can result in the delay of our ability to issue Proceedings for a period of up to one and a half years.



## How long have I got to make an accident, injury or illness claim?

In the Republic of Ireland legal proceedings in respect of accident and personal injury claims must be started within two years. This was an amendment brought in by the Civil Liability and Courts Act 2004. In Northern Ireland legal proceedings in accident and personal injury claims should be started within three years of the date of the accident. After the expiry of these respective periods it will generally be too late. The two / three year limit is often referred to as the limitation period. If you are in doubt you should contact us immediately. For example, your car accident may have occurred in Ireland over 2 years ago but the other driver may be from Northern Ireland. In that event we would issue Proceedings on your behalf in Northern Ireland (where the other driver resides) and thus bring your Claim within the 3 year limitation period required in Northern Ireland.

### **Suspension of the limitation period where the Claim has been submitted to InjuriesBoard.ie**

In the Republic of Ireland the limitation period issue is further complicated by the terms of the Civil Liability and Courts Act 2004 and the suspension of the limitation period where the Claim has been submitted to InjuriesBoard.ie (previously known as the Personal Injuries Assessment Board (PIAB)) This is explained in greater detail on the Compensation Claims Guide section of our website.

### **Date of diagnosis**

In some circumstances the respective two / three year deadlines would start from the date the injury was identified, rather than the date the accident occurred. For example, you may only get a diagnosis of an occupational disease some years after a relevant incident which caused that disease. In this instance the deadline may be measured from the date the diagnosis was made.

Mental disability or where Claimant is under 18 years of age There are other cases where the initial two / three year limits do not apply. For instance, where the claimant is suffering

from a mental disability or is under 18 years of age (a minor) or cases involving diseases which take a long time to develop after the initial exposure.

If you are concerned that you may not be able to make a claim for an injury you suffered more than the respective two / three years ago or the limitation period is fast-approaching, contact us without delay. We will discuss your particular circumstances with you and we will let you know whether you are still in time to make a compensation claim.

## What must I prove?

Most compensation claims are for 'negligence', which is when a person or organisation has not taken reasonable care when they should have done. For example, drivers have a duty to drive carefully. If you are injured because someone hasn't driven carefully, you will be able to claim compensation. To get compensation you have to show that somebody has not taken the care they should have. Just being injured, even if it is serious, doesn't mean that you will be able to claim compensation, because sometimes there is no one, apart from yourself, to blame.

You will have to prove that the person or organisation you are claiming from:

- was 'negligent', which means they did not take reasonable care when they should have done or
- breached a contract they have with you, which means that they have broken their side of a legally enforceable contract that you made with them or
- did not do something the law says they should (for example, if your employer did not provide you with certain health and safety equipment you need to do your job safely)

## What is meant by 'liability'?

'Liability' is simply the question of who accepts responsibility for the claim. In every single claim the issue of liability must be addressed.

### **Liability admitted**

Liability admitted means that the other party's insurers have admitted responsibility for the accident. We should then be able to recover all your reasonable losses arising from the accident.



### Liability disputed

This occurs when the other party's insurers won't admit liability for the accident. If this should arise then we'll ask you for your comments on any allegations against you. We may also require further supporting evidence.

### Split liability

Split liability occurs when you and the other party accept you're both partially responsible for the accident. In this case your damages would be apportioned in accordance with the split of liability; for example on a 50/50 split you'd recover half your losses.

Your No Claims Bonus would usually be affected if liability is split, unless it is protected.

## How much compensation will I receive?

The amount of personal injury compensation awarded varies depending on the seriousness of the injury and the financial losses involved. Compensation is awarded for pain, suffering and your inability to do things after your accident that you could do before. The award is made based upon medical evidence, normally specialist reports, of the injuries suffered. The amount of compensation takes account of how your injuries or disease affect you now and how they might affect you in the future. This compensation is known as General Damages.

### Assessing General Damages

In assessing General Damages in the Republic of Ireland InjuriesBoard.ie and the Courts are guided by valuations set out in the **Book of Quantum**. In assessing General Damages in Northern Ireland the Courts are guided by valuations set out in the **Guidelines for the Assessment of General Damages in Personal Injury Cases**. These are however guidelines only. Every case differs, dependant on the circumstances of the accident and the severity of the injury. We can advise you further on this when you contact us.

### Financial Losses

Accident compensation is also paid to cover financial losses suffered as a result of the accident. The aim of this type of compensation is to put you back in a position, financially, as if the accident had never occurred. You should keep receipts and invoices for any expenses associated with your accident, e.g. for prescriptions and the cost of travelling to hospital.

Accident compensation will cover any loss of earnings since the accident and any future loss of earnings. In more serious cases personal injury compensation will extend to alterations to property or vehicles and on-going care costs, including those provided by the family. This compensation is known as **Special Damages**.

## Why chose Morgan McManus Solicitors?

It is important to choose a solicitors' firm who have specific experience in dealing with accident, injury or disease claims. At Morgan McManus we have many years of experience in dealing with Accident Claims in both Northern Ireland and the Republic of Ireland. We will be happy to talk you through the compensation claim process. We will answer any questions you ask and will offer our advice in plain language which you understand. We take the mystery out of the claims process. We will be able to advise whether you have a valid claim for compensation. If you do have a valid claim and decide to instruct us to deal with it for you, we will ensure that the process is entirely hassle-free for you.

Bear in mind that the vast majority of claims do not go to Court. In some cases the insurers will want to settle early and, if the amount is reasonable, we will advise you to settle. If the amount offered is not sufficient, we will advise you to take the claim to Court. You however will make the decision as to whether you want to proceed to Court.

## Help us to help you

- Provide supporting documentation
- Respond quickly
- Overall, it's your claim
- Ask, if in doubt
- Clear and concise instructions, please
- Tell us everything about the claim
- Inform us of any changes to contact details
- Verify documentation we send
- Ensure you mitigate your claim for loss, damage and injury

### Republic of Ireland Claims

In contentious claims, a Solicitor may not calculate fees or other charges as a percentage or proportion of any award or settlement



Caroline Beggan  
Legal Secretary

**Morgan McManus Solicitors,  
The Diamond, Clones,  
Co.Monaghan, Ireland.  
Tel from ROI: 047 51011  
Tel from NI: 00353 47 51011  
Email: law@morganmcmanus.ie**