

HOW TO DETERMINE THE VALUE OF A PERSONAL INJURY CASE

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There is no formula or process that someone can use to determine the amount of money that a personal injury case is worth. If there was a formula that was used, I guess I would be out of a job. One could enter the information into the “formula” and come up with the value of a case. This would make jury trials unnecessary. Yet trials are a necessary part of our court systems when the two sides cannot agree on the value of a case.

A case is worth an amount of money that is needed to compensate an injured person for their injuries. The different of their injuries are called the damages. Some of these damages can be easy to calculate, like the past and future medical bills, lost wages, loss of power to labor and earn money, and property damage.

The injured person is also entitled to compensation for “pain and suffering”. This is more difficult to place a value on. Factors such as pain, agony, disability, loss of enjoyment, inconvenience and mental anguish are considered. They can be different for every person and every situation. These are all subjective and thus difficult to determine a value for. The amount of money assigned to these factors will be different depending on the adjuster (or jurors) who are deciding and putting a value on the case.

After an accident, a claim or lawsuit is filed and the injured person’s attorney and the at-fault person’s insurance company (and the defense attorney if the case is in litigation) are continually trying to evaluate how a jury might look at the case and how much money a jury might award. Based on the evaluation each side will assign a value or a value range, and try to negotiate a settlement within each side’s own range. For you this will be based upon your attorney’s experience and review of jury verdict reports.

It may take months or even years before the value of a case can properly be determined depending on the severity of the injuries. One reason for this long period of time is the slow progress of a person’s recovery or rehabilitation. The complexity of the injury or treatment may also cause a delay in a diagnosis by the treating physician. A case should not be settled or resolved until the person obtains maximum medical improvement (MMI) following the accident. This means the injured person has recovered or has reached the best condition that they will ever be in.

The value of a case is based primarily on the extent and severity of the person’s injuries. The type, extent and frequency of past medical

treatment and the need for future treatment are also important considerations.

When I evaluate a case, I rely on other factors; such as the client's likeability as a witness and their credibility, the facts of the accident giving rise to the case, the extent and permanency of the injuries, the client's age, whether the client missed time from work, the identities of the at-fault insurance company and its defense attorney, specific legal or evidentiary issues involved in the case, the county or venue, whether the case has been or will be filed in Court, and the amount of settlements and verdicts for similar types of cases that I and other lawyers have obtained in the past.

No two cases are alike, even if the accident and / or injuries involved are nearly identical. The evaluation of two cases which appear similar on the surface may produce vastly different evaluations and results. Evaluating personal injury cases takes a lot of knowledge, experience and some plain old intuition. Without this experience and training you may be at a serious disadvantage when negotiating with the insurance adjuster. Unless you are in the business of evaluating and settling personal injury cases for a living, you should look to an experienced personal injury attorney for guidance.

There used to be a formula for evaluating these cases when I began practicing law in the late '80s. In hindsight, it wasn't a good indication of the value of an injured person's pain and suffering. Basically, you would take the amount of medical bills and multiply that by 3-5 times to get the settlement range. This is not used at all today. In an effort to bring down settlement amounts insurance companies have developed computer programs, such as COLLASUS and TEACH, to evaluate a place a range of settlement on a case. The purpose of these programs was to limit the value of a case. To make sure low amounts were paid out. It has worked.

Although, there is no formula now it is important that your attorney knows how these programs work and how they can be used to your advantage to increase the settlement value of your case.