



INJURY LAW TEAM

A photograph showing a person's hands holding a smartphone. The background is a blurred car accident scene with a white car and a red fire hydrant.

Get informed.

INFORMATION FOR
ACCIDENT VICTIMS



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INFORMATION FOR ACCIDENT VICTIMS

If you have suffered an injury in a motor vehicle accident, then you may have a claim for damages against the negligent driver. This claim can include compensation for the injury, pain and suffering, loss of earnings, as well as the cost of housekeeping and other future care needs. A lawyer can discuss this with you in a free consultation.

It is important you do some research before you retain a lawyer. It is generally best to retain a local lawyer with whom you can meet and discuss your case on a regular basis. You should also retain a lawyer who is experienced with your type of case and who is prepared to do a full and complete assessment of your injuries in order to arrive at a calculation of fair compensation.

In most cases legal proceedings must be commenced within two years of the date of your claim or it will be too late to start an action.

It is important that you speak with legal counsel as soon as possible after an accident in order to maximize financial help available to you and ensure that a claim can be advanced on your behalf.

This booklet summarizes important information for accident victims.

PRACTICAL STEPS

1. You must advise your auto insurer of your injury within 10 days of the collision.
2. Contact your family doctor and book an appointment. Make sure to mention that you have been in an accident and ask whether your health care provider is aware of the diagnosis and treatment protocol regulations. It is important that you follow the directions of your family doctor and attend any further medical appointments, chiropractor, massage or physiotherapist appointments according to their advice.
3. If you have been in a major car accident and are seriously hurt, you or someone on your behalf should contact a lawyer right away.

4. Do not rush into a settlement! If you are fully healed within 90 days, you can negotiate a settlement with the insurance company on your behalf, or sue the defendant in Small Claims Court. However, to ensure you are completely healed we would suggest that at a minimum you wait six months after a collision before having settlement discussions and even then it would be best to consult with a lawyer.
5. If after an initial course of treatment you are not fully healed and the injury continues to impair your work, schooling or normal activities of daily living, you should retain a lawyer to assist you with your claim.
6. You are not required to speak with the other party's insurers. We recommend that you do not deal with the responsible party's insurance adjuster, but only with your own insurance company.
7. We recommend you do not sign authorizations, releases or documents provided by the other party's insurance company and that you consult with a lawyer if you have any questions during the process.

PAYMENT OF MEDICAL EXPENSES AND DISABILITY

If you have been disabled from working as a result of an injury suffered in a motor vehicle accident there is immediate money available to pay medical expenses and lost earnings.

If you have a health plan through your employer you should call and ask about your coverage.

If the accident happened during the course of your employment, you may be entitled to *Worker's Compensation Benefits*. Call 1.866.922.9221.

In addition there is funding available pursuant to the Section B no-fault benefits of your automobile insurance policy for medical and treatment expenses up to the sum of \$50,000, disability

benefits for wage earners up to \$600 per week and non-earner benefits of \$200 per week if disabled due to the injuries.

MINOR INJURIES

In respect of a motor vehicle accident, a “minor injury” means a sprain, strain, or a Whiplash-Associated Disorder (WAD) injury caused by that accident that does not result in a serious impairment. For accidents that occur after Nov. 1, 2020 that definition has been expanded to include “any clinically associated sequelae of the sprain, strain or WAD injury, whether physical or psychological in nature, caused by the accident that do not result in a serious impairment”. In general, up until these recent changes, injuries that last longer than 6 months will usually not be considered “minor injuries” by the Courts.

Determining whether you have a “minor injury” is important because there is a limit on damages recoverable on minor injuries, while there is no limit on damages recoverable for injuries that develop into a serious impairment. Do not accept that your injuries would be considered a “minor injury” until you have reviewed the matter with an experienced injury lawyer.

The minor injury cap is \$5,488 for accidents that occurred in 2021 and will increase to \$5,817 for accidents that occur after January 1, 2023 and increases with inflation every year. You can also claim for past and future income loss, future medical care and treatment expenses, cost for replacement home, yard and personal care expenses and other out-of-pocket expenses on top of the cap amount. If you think the Minor Injury Regulation is unfair, we encourage you to contact your Member of the Legislature Assembly of Alberta to lodge a complaint.

SECTION B BENEFITS FOR MINOR INJURIES

Section B of your automobile insurance policy deals with accident benefits you are entitled to.

If you suffered what is considered at the outset to be a minor injury, you are entitled to 10 or 21 physiotherapy treatment visits, depending on the categorization of your injury which will be paid directly by your insurance company through no-fault section B benefits. You can obtain additional treatment if it is necessary in the opinion of your care provider. If you have any issues with coverage for ongoing medical treatment you should contact a lawyer.

Any treatment after 90 days after the collision for injuries deemed “minor injuries” requires the approval of your automobile insurer. However, if your treatment is still considered to be necessary by your treatment provider the expenses may still be covered by section B.

In addition to these medical benefits, if your doctor certifies that you are completely disabled from working at your job as a result of your injuries, you could be entitled to immediate ongoing wage loss compensation of 80% of your salary or \$600/week, whichever is less, until your doctor says you are fit to return to work including to limited hours or modified duties, to a maximum of two years. There is a one week waiting period but you should then qualify for regular benefits cheques until you are able to return to work in some capacity.

SECTION B BENEFITS FOR SERIOUS IMPAIRMENT

If you have suffered a serious injury as a result of a motor vehicle accident, or if your injuries have not recovered after 10 or 21 physiotherapy treatments and your doctor or treatment provider confirms you need ongoing treatment outside of the Minor Injury Protocols, you can claim up to \$50,000 from your insurer for all reasonable medical expenses incurred within two years from the date of the accident.

Your insurer will pay up to \$1,000 for chiropractor treatment, \$350 for massage therapy and \$350 for acupuncture services. You may be able to exceed these limits if your insurer’s medical advisor recommends it.

Your insurer has the right to have you assessed by their medical advisor after 90 days after the accident as to whether or not you require treatment, and if so, what type.

You should always speak to a lawyer before you attend a Section B medical examination.

As with Minor Injuries, you are also entitled to partial compensation for lost earnings equivalent to 80% of your average weekly wages or \$600/week, whichever is less, for up to two years as outlined above. If you are over 18 years old and not working at the time of the accident and are unable to perform your usual household duties, you may be entitled to compensation of \$200/week in place of a lost earnings claim, again for up to two years. Your doctor will need to certify to your insurer that you are completely disabled from working or completing household duties to qualify for these disability benefits.

ADVANCE PAYMENTS FROM THE DEFENDANT'S INSURER

Once you have retained a lawyer and started a court action to recover losses or damages from a person covered by a motor vehicle liability policy, you can bring an application to the Court for an advanced payment from that person's insurer.

The Court may make an order for an advanced payment to you if the Judge is satisfied that as a result of the injuries, you are unable to pay the necessities of life or if he or she thinks the payment is otherwise appropriate.

Since personal injury cases can take years to settle or to get to trial, this option is important for you to know about in case you find yourself in a dire financial situation.

PAYMENT OF MEDICAL EXPENSES FROM THE GENERAL REVENUE FUND

In the event you have no other source of funding for payment of hospital, medical or ambulance expenses, an application may be

made to the Administrator of the *Motor Vehicle Accident Claims Fund* pursuant to Section 17 of the *Motor Vehicle Accident Claims Act*. The fund may cover expenses up to \$95,000.

You can contact them toll-free by dialing 310.0000 then 780.427.8255.

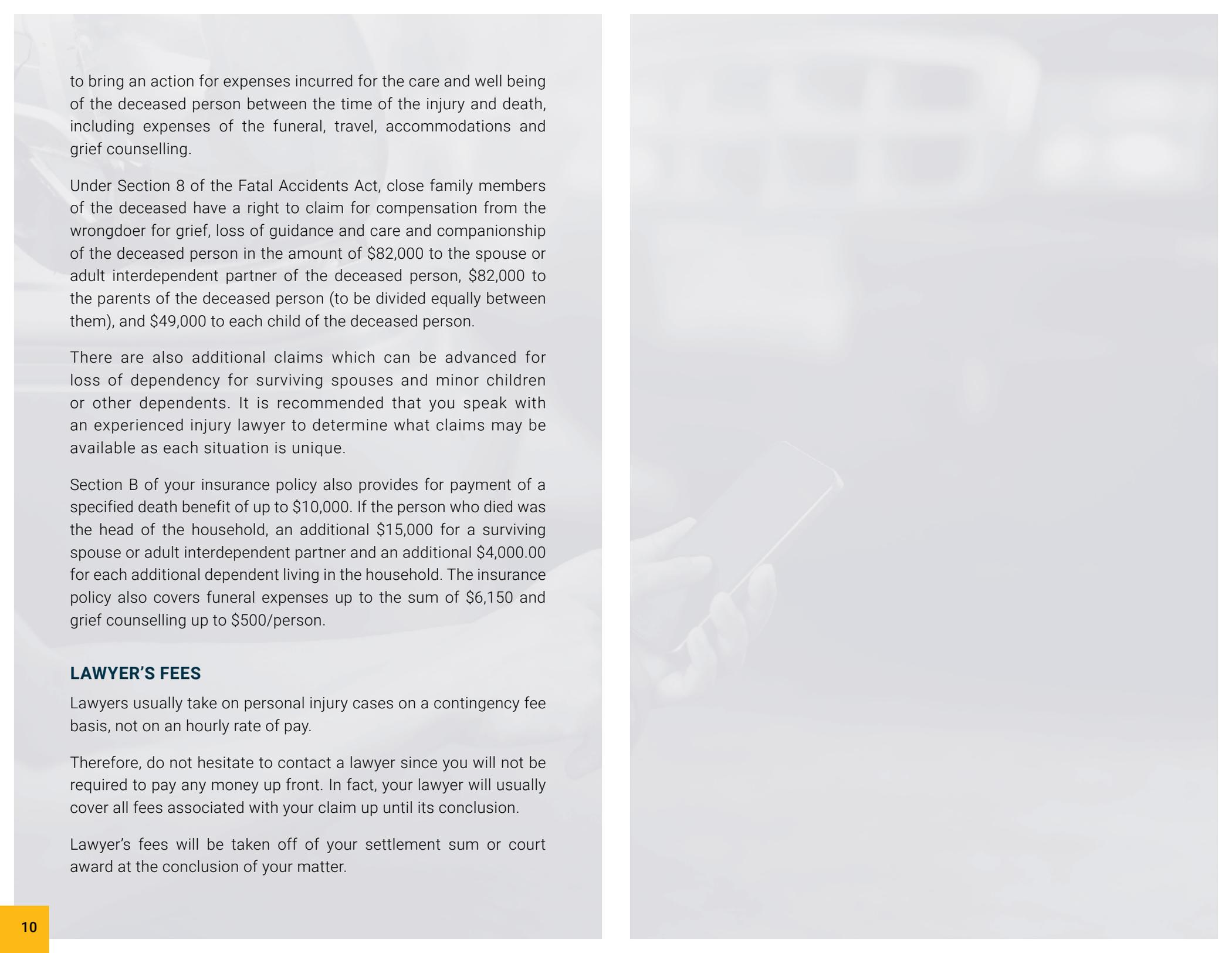
ACCIDENTS WITH UNINSURED OR UNIDENTIFIED DRIVERS

If you were injured in an accident with a driver who left the scene and could not be located or identified, or with a driver who later turned out to not have valid insurance in place, you still may be able to make a claim for compensation for your injuries and losses.

The Motor Vehicle Accident Claims Fund is a financial resource through Alberta Justice set up to provide compensation in those sorts of circumstances. In cases where the responsible driver cannot be identified or does not have insurance coverage, the Fund steps in to cover the damages and losses incurred by the innocent party. If you find yourself in such a situation, you have the right to make a claim against the maximum \$200,000.00 available from the Fund. By submitting a claim, you can seek compensation for your pain and suffering, past and future medical expenses, lost earnings, and other related costs resulting from the accident. Claims against the Fund are complicated however, and do require a claimant to commence a legal action against the uninsured or unidentified driver and take additional steps to ensure you can make a claim. If you find yourself in this situation you should contact an experienced personal injury lawyer immediately for assistance as there are steps that need to be taken as soon as possible to preserve your rights to compensation.

FATAL ACCIDENTS

Close family members of a person who died in a motor vehicle accident due to the wrongful act or neglect of a person have a right



to bring an action for expenses incurred for the care and well being of the deceased person between the time of the injury and death, including expenses of the funeral, travel, accommodations and grief counselling.

Under Section 8 of the Fatal Accidents Act, close family members of the deceased have a right to claim for compensation from the wrongdoer for grief, loss of guidance and care and companionship of the deceased person in the amount of \$82,000 to the spouse or adult interdependent partner of the deceased person, \$82,000 to the parents of the deceased person (to be divided equally between them), and \$49,000 to each child of the deceased person.

There are also additional claims which can be advanced for loss of dependency for surviving spouses and minor children or other dependents. It is recommended that you speak with an experienced injury lawyer to determine what claims may be available as each situation is unique.

Section B of your insurance policy also provides for payment of a specified death benefit of up to \$10,000. If the person who died was the head of the household, an additional \$15,000 for a surviving spouse or adult interdependent partner and an additional \$4,000.00 for each additional dependent living in the household. The insurance policy also covers funeral expenses up to the sum of \$6,150 and grief counselling up to \$500/person.

LAWYER'S FEES

Lawyers usually take on personal injury cases on a contingency fee basis, not on an hourly rate of pay.

Therefore, do not hesitate to contact a lawyer since you will not be required to pay any money up front. In fact, your lawyer will usually cover all fees associated with your claim up until its conclusion.

Lawyer's fees will be taken off of your settlement sum or court award at the conclusion of your matter.



INJURY LAW TEAM

For a free consultation please call
Toll Free: 1.888.531.7771

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**Our commitment is to ensure
your rights are protected
and you are treated fairly.**