

Making a Personal Injury Claim

– Innocent Victims of Accidents –

This Info Sheet provides basic information about Personal Injury Claims (PIClaims); it is not meant to be a substitute for legal advice. Seek advice from a personal injury lawyer if you wish to make a PIClaim.

If you are the innocent victim of an accident caused—at least in part—by the fault of another person, you can make a Personal Injury Claim (“PIClaim”). This type of claim allows for 100% recovery of expenses for medical care, rehabilitation and disability; past and future income losses; and other compensation, known as damages.

A PIClaim can be made in addition to your claim for ICBC Accident Benefits for medical care and income loss. For more information on ICBC benefits see our [Info Sheet 2, Claiming ICBC Benefits for Medical Care and Rehabilitation, Any Injured Person](#) and [Info Sheet 3, Claiming ICBC Benefits for Income Loss and Homemaker Expenses](#).

Someone else must be at least partially at fault.

As the innocent victim, you would make the PIClaim against the person who wrongfully hurt you in a car accident. You cannot make this claim unless someone else was at least partially at fault for the accident. Further, individuals who were at fault cannot succeed with a PIClaim; they can claim ICBC benefits only.

If you were driving for work at the time of the accident, you will have to choose between a *WorkSafe* claim and a PIClaim; you will have no claim for ICBC Accident Benefits. For more information on *WorkSafe* claims see our [Info Sheet 14, ICBC and WorkSafe Coverage – Workers in Motor Vehicle Accidents](#).

100% Compensation

You may make a PIClaim even if you are receiving other benefits such as:

- ICBC Accident Benefits for medical care and income loss;
- private or group extended health or disability income loss benefit plans;
- Employment Insurance sickness benefits; or
- Canada Pension Plan disability benefits.

However, if you are found partially at fault for the accident, the amount you receive from your PIClaim will be reduced by a certain percent. If you are solely at fault, your claim is limited to ICBC Accident Benefits only.

<p>Damages</p>	<p>Lawyers refer to five “heads of damages” an innocent victim may recover through a PIClaim. An innocent victim may collect some or all of them depending on their unique circumstances. The five damages are:</p> <ol style="list-style-type: none"> 1. compensation for pain and suffering; 2. past income loss or loss of capacity to earn income in the past; 3. future loss of income or capacity to earn future income; 4. past out-of-pocket expenses (special damages); and 5. future cost of care. <p>However, if you are found partially at fault for the accident, the amount you receive from your PIClaim will be reduced by a certain percent. If you are solely at fault, your claim is limited to ICBC Accident Benefits only.</p>
<p>ICBC will subtract accident benefits from your personal injury award.</p>	<p>ICBC will subtract any Accident Benefits you have already received from your PIClaim award. That means, for example, if you are awarded \$20,000 and ICBC has already paid you \$8,000 in income loss benefits, you would only receive \$12,000.</p> <p>On the other hand, Employment Insurance sickness benefits, Canada Pension Plan disability benefits, and private disability benefits are usually not subtracted from your PIClaim. For information on all other benefit options, see our Info Sheet 5, <i>Other Types of Coverage – When to Collect</i>.</p>
<p>ICBC may make you an offer to settle.</p>	<p>ICBC will defend the at-fault driver from your PIClaim by contracting the defense to a law firm. To avoid the cost and time of a trial, ICBC will likely make you an offer to settle your claim, especially if you stand to collect a relatively large amount. Do not accept a settlement offer from ICBC until:</p> <ul style="list-style-type: none"> ▪ your medical condition is stable; ▪ your doctor can say <ul style="list-style-type: none"> ▫ when you might expect to recover from your injuries; and ▫ whether or not your injuries will cause any lasting effects. <p>If you accept an offer without that information, even if your settlement is entirely unfair, you will not be able to make future claims. You should consult a lawyer to assess an offer from ICBC before accepting it. BEWARE: ICBC may show you cases decided by judges to make an offer seem fair, but for every low-value decision there is another much higher one.</p>
<p>Your lawyer will try to settle your claim outside of court through negotiation or mediation.</p>	<p>Your lawyer will try to settle your PIClaim outside of Court through negotiating or mediating with ICBC. Sometimes you may have to sue in Court.</p> <p>Some tyPIClaimal examples include ICBC refusing to pay Accident Benefits for medical care and income; ICBC deciding that you are at fault; or ICBC refusing to pay you the amount of damages to which you and your lawyer agree you are entitled.</p> <p>We recommend that you do not start your own claim without first seeking legal advice.</p>

**How Long
Your Claim
Will Take**

A PClaim generally proceeds slowly, from months to years, as it is important that you reach a medical plateau before considering settlement. Before this point is reached, you can recover interim compensation for income loss and expenses.

Depending on the seriousness of your injury and how complicated your recovery is, your Claim may take years before it's settled or goes to trial. Your lawyer should be able to give you a fairly accurate time estimate after he or she has become familiar with your case.

Generally, however, the more complicated your case, the longer it will take before you receive compensation.