

Pound for pound

Compensation facts and figures

Who pays? Civil compensation is awarded by the courts where injury or illness has resulted from employment, where the employer has been negligent and the employer could have foreseen the harmful effects of that negligence. The payout will be reduced if the court decides you were partly to blame through "contributory negligence." There are about 100,000 successful personal injury settlements each year, normally paid by the insurer providing employers' liability insurance.

Big sums: The civil court calculates the size of the payout, made up of "pecuniary losses" (lost past and potential earnings, medical expenses etc) and the harder to calculate "non-pecuniary losses" (for the pain, suffering and loss of amenity (PSLA)), based on published "JSB Guidelines".

WHAT'S IT WORTH? You think you are worth more dead than alive? Well, you might be worth less than you think, either living or dead. It is hardly a fair system. A stockbroker with a broken arm could feasibly end up with more compensation than a building worker with a broken neck.

This can happen because personal injury compensation is decided by the civil courts and is intended to provide recompense for what the victim has lost. It is not intended to provide justice.

The full award in all cases would be the pain, suffering and loss of amenity (PSLA) sum plus 'pecuniary damages' based on financial losses.

No crime: UK compensation payments contain no punitive element, even though a civil court settlement for a workplace injury or disease can only be awarded where employer negligence has been demonstrated. *Paying the right price*, a February 2000 TUC report, called for punitive damages to be added to compensation awards, something also supported in a 1997 Law Commission report.

Union pay off: Unions win the lion's share of personal injury compensation payouts. They consistently settle claims worth over £300 million a year - £320 million in 1999. The latest TUC figures show that well over 50,000 union cases are settled each year - over half of the annual total - with an average payout of £6,150, well above the level for all claims. Union members, meanwhile, pay an average of just £6 per year to receive this legal back-up.

Information

Guidelines for the assessment of general damages in personal injury cases. Fifth edition. (the 'JSB guidelines'). Judicial Studies Board. Blackstone Press. ISBN 1 84174 031 4. July 2000. £19.50.

Trade Union Trends survey. Focus on services to injury victims. TUC, December 2000. £30.00. *Paying the right price. Compensation for workplace injuries.* TUC, February 2000. For TUC's safety website, go to: <http://www.hazards.org> and click on 'TUC'. Law Commission reports on the web: <http://www.open.gov.uk/lawcomm> Association of Personal Injury Lawyers: <http://www.apil.com>



LOSE YOUR SENSES

Deafness/tinnitus: The number of industrial deafness claims are falling but still dominate compensation payouts, making up two-thirds of all industrial disease claims. Over 20,000 cases were settled in 1998, most for under £5,000.

Acoustic shock: In the biggest claim to date, BT operator, David Stonier, was awarded £93,000 for the condition (Hazards 72).

PSLA guide: Total deafness, up to £70,000; slight or occasional tinnitus with slight hearing loss, £3,750. Eye injuries: £135,000 for total blindness, falling to £1,000 for a transient eye injury. Loss of taste and smell: £70,000.

HEARTS AND MINDS

Brain damage: A member of the firefighters' union FBU received £900,000 after a fall from a fire appliance caused brain damage and other injuries (Hazards 72). NASUWT member John Gill was poisoned with carbon monoxide at his teaching job, causing mental impairment and ill-health retirement, and was awarded £562,000 (Hazards 69). AEEU member Tony Bradshaw was awarded £280,000 after developing cerebellar ataxia caused by workplace solvent exposure (Hazards 55). UCATT member Gordon McIvor got £100,000 after solvent injuries led to his retirement (Hazards 52).

PSLA guide: £200,000 plus for the most severe brain injuries down to £1,000 for a minor head injury.

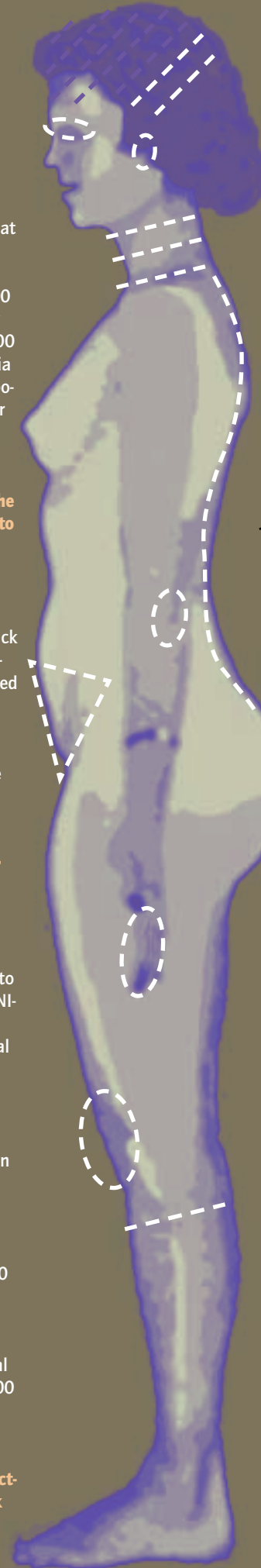
Post traumatic stress disorder (PTSD)

In 1998 a doctor was awarded £465,000 for needlestick phobia after a sharps injury (Hazards 65); in 1993 a cleaner received just £3,750 for her trauma after being stuck with a hypodermic (Hazards 43). Pesticide exposed workers have received five figure compensation for related PTSD (Hazards 50 and 43).

PSLA guide: Up to £50,000 for severe PTSD, down to £4,000 for moderate damage.

Stress and bullying: NASUWT member Jan Howell received £254,362 for the stress that led to her enforced early retirement. UNISON member Randy Ingram was awarded £204,432 after physical and verbal abuse led to his ill-health retirement (Hazards 69). Council worker John Walker was paid out £175,000 after work stress led to a nervous breakdown (Hazards 49). An NUT member bullied in his teaching job was awarded £300,000 (Hazards 71). The family of UNISON member Richard Pocock received £25,000 after the mental health nurse's bullying related suicide. BT employee Nathan Lee, who contemplated suicide after racial abuse at work, was paid £129,000 in a settlement won by his union CWU.

PSLA guide: Up to £57,500 for severe psychiatric damage, affecting ability to cope with life, work and relationships, and where recovery is unlikely. As low as £750 for minor problems.



LIFE AND LIMB

Strain injuries: Iona Hotchkiss was awarded £538,000 damages for career-ending neck injuries caused by bad workstation design (Hazards 72). A bad keyboard led to RSI and a £243,792 payout for bank worker Fiona Conalty. Graphic designer Michelle Gould's computer mouse-related strains led to a £25,000 payout and a pair of dodgy bellows caused PSC member David Herbert's tennis elbow, leading to a £10,000 settlement (Hazards 68).

PSLA guide: Continuing problems in both hands, surgery and lost job: £11,000 to £11,500. One hand: £7,500 to £8,250. Symptoms resolving within two years: £4,250 to £4,750. Complete recovery within a short period: £1,000 to £1,750.

Back injuries: A UNISON dossier shows nurses receiving six-figure payouts after suffering disabling back injuries caused by patient handling. Nurse Nancy Coulter was awarded £210,000 in July 1994.

PSLA guide: Up to £85,000 for severe cases not involving paralysis (generally with other serious consequences like incontinence), down to £6,500 or less for a minor injury.

Vibration white finger (VWF)

Eight GMB members who had to retire from jobs at British Gas because of the effects of VWF were awarded a total of £1.2 million in compensation (Hazards 72). Tens of thousands of miners with VWF have been paid £212 million to date, under a September 1999 government-agreed compensation scheme (see page 10).

PSLA guide: From £10,500 to £17,000 for the most serious cases, down to £2,750 or less for 'minor' cases.

YOUR EVERY BREATH

Asthma: T&G member Violette Hutchins received a record £500,000 for solder fume related asthma (Hazards 62). UNISON member Fiona Grobbey, a nurse, was awarded £157,000 for asthma caused by exposure to the sterilant glutaraldehyde (Hazards 71).

PSLA guide: Up to £33,000 for severe, permanent, disabling asthma, with severe impairment of social, physical and employment prospects. Down to no more than £2,500 for mild asthma, bronchitis, colds and chest problems that resolve in a few months.

Mesothelioma, lung cancer or asbestosis: The family of hospital consultant James Emerson received £1.15 million following his death from the asbestos cancer mesothelioma. The widow of UNISON member Kenneth Lord received £100,000 following his death from the same condition. June Hancock, who developed mesothelioma after living near a T&N asbestos factory, was awarded £65,000 in 1995, dying less than two years later, aged 61 (Hazards 60).

PSLA guide: £40,000 to £50,000; more for a younger person.

Bronchitis and emphysema:

£108 million paid out to ex-miners since a September 1999 scheme took effect. Welders were compensated after a lengthy legal battle by their union GMB (Hazards 31).

PSLA guide: Up to £27,500 for significant breathing difficulties, down to £1,000 for temporary aggravation of bronchitis.

Other lung disease

The PSLA guide gives a range from £65,000 for a young person with a progressive condition leading to premature death, down to £1,000 for a temporary, quickly resolved condition.

BODILY REMAINS

Skin problems: GMB member Paul Feeney, an AA patrolman, received £130,000 for severe dermatitis leading to early retirement (Hazards 71). UNISON member Diane Chambers, a nurse, received £100,000 for the latex glove allergy that forced her to give up work. Five hospital catering assistants exposed to washing up liquid and wet work received allergic dermatitis payouts of up to £68,000 each after action by UNISON.

PSLA guide: No guidance given.

Amputations and breaks: A UCATT member was awarded £365,000 after a building site injury led to the amputation of his leg. UNIFI member Liz Wood received £100,000 after a fall at her Barclays Bank workplace led to the loss of a leg.

PSLA guide: From up to £150,000 for the loss of both arms or legs, or £100,000 for both hands, down to £1,000 plus for a fracture of a finger.

Other PSLA guidance:

Quadraplegia: £160,000 to £200,000. Paraplegia: £110,000 to £140,000. Male impotence: £75,000. Female infertility: From £85,000 in the most distressing cases, down to £3,250. Hernia: Between £13,250 and £1,600.