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**Personal Injury**

# Lawyer should do thorough review to evaluate your claim's strengths

By Kirsten McMahon, Associate Editor



*In the second instalment of a two-part series, Windsor personal injury lawyer Gino Paciocco discusses litigation, settlements and compensation.*

If you have been injured in a slip, fall or motor vehicle accident, it's important to understand the litigation and settlement processes, Windsor personal injury lawyer [Gino Paciocco](#) tells [AdvocateDaily.com](#).

"The time it takes to bring a matter to trial will differ based on many factors," says Paciocco, a founding partner with [Paciocco & Mellow](#). "It all depends on the plaintiff's injuries and recovery time as well as how reasonable the parties are being in their respective positions."

Depending on the extent of your injury, you could receive damages for pain and suffering, loss of income, housekeeping and home maintenance services, and special damages such as out-of-pocket expenses and property loss.

"Your family members can also make a claim for loss of care, guidance and companionship suffered as a result of your injuries among other things," he says.

For motor vehicle accidents in Ontario, he says plaintiffs have to reach a threshold for damages and there is also a deductible that must be exceeded to obtain any return from an award for pain and suffering.

Damages are assessed based on what similar plaintiffs in comparable situations have been awarded by the courts as compensation for their injuries.

"Your lawyer should do a comprehensive review of similar cases to evaluate your claim's strengths and weaknesses," Paciocco says.

He notes that being partially at fault does not prevent someone from recovering financial damages in Ontario. In those circumstances, a percentage of contributory negligence may be applied to reduce entitlement by the amount of fault attributed to them.

"For example, if you are deemed to be 25 per cent of the cause of a car accident, any award or settlement you receive would be reduced by 25 per cent," Paciocco explains. "Your lawyer should always provide you with an assessment taking into account the amount of contributory negligence against you so that you are educated and able to provide realistic instructions."

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If your insurance company is offering you a settlement on your accident benefits, don't accept it without first seeking legal advice.

"Talk to your lawyer first," he says. "They know what your case is worth and if an offer from opposing counsel or your insurance company is fair."

Depending on the circumstances, it may be more beneficial to commence a claim to deal with counsel, as opposed to an adjuster, to obtain a greater result for the client, Paciocco says. Other times, it is more appropriate to deal with an adjuster, as opposed to counsel, in advance of litigation.

"This is something that is reviewed on a case-by-case basis and something that your lawyer can help you decide based on reasoned recommendations," he says. "Sometimes it is more advantageous to try a case and other times it is too risky to do so. One of the many factors includes risk tolerance of the client."

When it comes to legal bills, personal injury lawyers commonly work on a contingency fee, which means your lawyer will take a predetermined percentage of your settlement or award.

"However, it also means that if you don't end up with a settlement, you will not owe any legal fees to that lawyer, although you may have to pay the opposition's legal costs. Contingency agreements give plaintiffs greater access to legal services they otherwise might not be able to afford," Paciocco says.

To read part one, [click here](#).

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