

Catastrophic injury

How bad can it get?



The era of £100 million plus personal injury claims is upon us. The cost of catastrophic injury claims continues to rise, and the impact of the reduced discount rate has pushed claims higher than ever before. In the following hypothetical scenario, for illustrative purposes only, a high-earning male has been rendered tetraplegic following a tragic motor accident.

- Claimant is Male, living in London. Aged 24 at the date of the accident. Married with two young children.
- Founder and CEO of successful new technology company, earning £4m gross (£2m net) per year.
- He would have continued in the business, ultimately as Chairman, until retirement at age 70.
- No previous disability; educated to degree level.
- Has no residual earnings capacity.
- No contributory negligence on the part of the claimant, nor any causation arguments.
- Assume accident date of May 2012; Schedule below calculated as at May 2018.
- Proceedings served on claimant's 27th birthday and date of trial is today, his 30th birthday.
- Settlement is on a lump sum basis.
- Tetraplegic?, doubly incontinent, has some residual control in biceps and shoulders but no control at his wrists or hands. (probably a C4.)
- Since the claimant's 26th birthday, a professional care package has been in place.
- During the daytime, spasms are problematic despite medication.
- The claimant is of average height and weight.
- Assumed life expectancy has been reduced by 15 years.

General Damages	Midpoint of (a) page 3,14th edition of JC Guidelines (assumes 10% uplift).	319 435
------------------------	--	---------

Interest on General Damages	2% x 3 years x £319 435	19 166
------------------------------------	-------------------------	--------

Costs incurred up to trial

Case Management	From age 26 – 30. 4 years x £20000pa	80 000
------------------------	--------------------------------------	--------

Gratuitous care	May 2012 – May 2014	
	From age 24 – 26 = 2 years x £8.38 per hour x 75% x 21 hours per week x 52 weeks (£8.38 is an approximate average rate for the first two years, taken from page 307 PNBA 2017/18)	13 726

Privately funded care	From age 26 – 30. 4 years x £211620 per year, broken down as;	846 480
------------------------------	---	---------

Mon – Fri	7am – 0pm	Carer 1; 14 hours a day x £15 per hour (say average rate over last 4 years) x 5 days a week x 60 weeks
------------------	-----------	--

	8am – 11pm	Carer 2; 14 hours a day x £15 per hour (say average rate over last 4 years) x 5 days a week x 60 weeks
--	------------	--

	10pm – 8am	Sleep-in Carer 3; £65 per night (say average rate over last 4 years) x 5 nights x 60 weeks
--	------------	--

Sat – Sun	7am – 10pm	Carer 1; 14 hours a day x £17 per hour (say average rate over last 4 years) x 2 days x 60 weeks
------------------	------------	---

	8am – 11pm	Carer 2; 14 hours a day x £17 per hour (say average rate over last 4 years) x 2 days x 60 weeks.
--	------------	--

	10pm – 8am	Sleep-in Carer 3; £75 per night (say average rate over last 4 years) x 2 nights x 60 weeks
--	------------	--

Hourly rates include on-costs of Employers National Insurance contributions, recruitment advertising, insurance, training etc.

Physiotherapy charges	From age 26 – 30. 4 years x £110 per hour (inclusive of travelling expenses) (say average rate over last 4 years) x 24 hourly sessions per year	10 560
Occupational therapy	From age 26 – 30. 4 years x £80 per hour (inclusive of travelling expenses) (say average rate over last 4 years) x 12 hourly sessions per year)	3 840
Chiropody	From age 26 – 30. 4 years x £40 per hour (inclusive of travelling expenses) (say average rate over last 4 years) x 12 hourly sessions per year)	1 920
Gym membership	From age 26 – 30. 4 years x £1000 (say average rate of high end gym over last 4 years)	4 000
Aids and equipment/ Assistive technology	Assume the items (wheelchairs, theraposture bed, reclining chair etc) were purchased years prior to trial at a cost of	75 000
Private medical costs	(pressure sore /MRI referrals etc) where NHS falls short) From age 26 – 30. 4 years x £5000 (say average rate over last 4 years)	20 000
Accommodation	Assume adaptation costs of £150000	150 000
	Assume extra running costs (eg council tax, insurance) of £2000 x 4 years	8 000
	Assume solicitors fees, architects and surveyors fees of	30 000
Purchase of Wheelchair accessible/adapted vehicle	Assume purchased 4 years prior to trial	
	Cost, including adaptations, £65,000 – £40000 (current value of own high end vehicle absent the accident)	25 000
	+ additional annual running costs of £2000 (x 4 years)	8 000
Family expenses	Extra travel costs in visiting claimant etc. Allow up to trial a figure of £2000 a year for the first 2 years	4 000
Additional household expenses	Extra laundry, electric, heating costs, DIY, gardening etc. Allow £2000 per year x 4 years	8 000
Carers expenses	In attending social activities with the claimant. Allow £2000 per year x 4 years	8 000
Additional cost of holidays	Assume £10000 per year for 4 years leading up to trial	40 000
Loss of earnings	6 years x £1.75m (average net salary over last 6 years, 2012 – 2018 / assume average gross salary £3.5m over last 6 years) x 0.92 (page 67, Table A PNBA 2017/18) (This applies the same rationale/ employment contingencies to pre-trial earnings as post trial earnings)	9 660 000



Loss of employers pension contributions	6 years x £350000 (10% of average gross salary over last 6 years x 0.92, page 67, Table A PNBA 2017/18) (This assumes the employer contributed approx 10% of average gross salary (£3.5m) and applies the same rationale/employment contingencies to pre-trial contributions as post trial contributions)	1 932 000
Less saving in own living expenses whilst in hospital	As per s5 of The Administration of Justice Act 1982 Say £300 per week x 2 years	-31 200
Interest on past losses	Calculated as one half of the special investment account rate (currently 0.5%) from date. For simplicity, we will assume all past expenses were incurred 4 years prior to trial (May 2014 – May 2018) 1.79% is the assumed 4 year cumulative figure from May 2014 until May 2018 (page 150 PNBA 2017/18) because the table does not go beyond June 2017. Assume interim payments of £1m have been made. Therefore, assume the 4 year figure is £12877326 – £1m x 1.79% / 2	106 481
Hospital charges	Ambulance charges of £185 and capped in patient charges of £45 153 (charges as at May 2012)	45 338
Future Losses	Multipliers Male 30 years old, rated age of 45. Life multiplier is 48.34 @ -0.75% (page 86, PNBA 2017/18) Earnings multiplier is calculated as follows; Not disabled, employed, degree level education (page 25, PNBA 2017/18) = 41	
Case Management	Assume case management has now reduced due to an established regime @ £15kpa. x 48.34	725 100
Privately funded care	£229680 per year x 48.34, broken down as follows;	11 102 731
Mon – Fri	7am – 10pm Carer 1; 14 hours a day x £16 per hour x 5 days a week x 60 weeks 8am – 11pm Carer 2; 14 hours a day x £16 per hour x 5 days a week x 60 weeks 10pm – 8am Sleep-in Carer 3; £80 per night x 5 nights x 60 weeks	
Sat – Sun	7am – 10pm Carer 1; 14 hours a day x £18 per hour x 2 days x 60 weeks 8am – 11pm Carer 2; 14 hours a day x £18 per hour x 2 days x 60 weeks 10pm – 8am Sleep-in Carer 3; £90 per night x 2 nights x 60 weeks	
Hourly rates include on-costs of Employers National Insurance contributions, recruitment advertising, insurance, training (and Employer's pension contributions from 2016).		

Aids and equipment / Assistive technology	Assume the items purchased for £75k 4 years prior to trial need replacing every 7 years. LE for a 30 year old with a rated age of 45 = 48.34 years (para 9, page 38 & page 86, PNBA 2017/18) (Rounded to 48 years for ease of calculation) 48 years with a replacement period of 7 years is calculated from Table 27 as follows:	
	First 3 years (items bought 4 years ago, due to be replaced in 3 years time)	
	£75000 x 1.0228	3 years accelerated receipt, payment lasts 7 years
	£75000 x 1.0782	10 years accelerated receipt, payment lasts 7 years
	£75000 x 1.1365	17 years accelerated receipt, payment lasts 7 years
	£75000 x 1.198	24 years accelerated receipt, payment lasts 7 years
	£75000 x 1.2629	31 years accelerated receipt, payment lasts 7 years
	£75000 x 1.3312	38 years accelerated receipt, payment lasts 7 years
	£32142 x 1.4032	45 years accelerated receipt, payment lasts 3 years.
	(£75000 x 3/7 = £32142)	
	Total = £572321	572 321
Future medical costs	Private medical costs (pressure sore/MRI referrals etc) where NHS falls short. Allow £6k pa x 48.34	290 040
Additional household expenses	Extra laundry, electric, heating costs, DIY, gardening etc. Allow £3000 per year x 48.34 years	145 020
Carers expenses	In attending social activities with the claimant. Allow £2500 per year x 48.34	120 850
Transportation costs	Assume the wheelchair accessible vehicle bought 4 years ago needs replacing every 4 years ie now. Proportion of price lost after 4 years = 0.64 + 0.01 (automatic vehicle – page 361, PNBA 2017/18) x new cost of each replacement. Cost of each replacement 0.65 x £65,000 = £42250 LE for a 30 year old with a rated age of 45 is 48.34. For ease, round it to 48 (page 86, PNBA 2017/18) 48 years with a replacement period of 4 years is calculated from Table A5 (page 41, PNBA 2017/18) as; £42250 x 14.67 =£619807	
	Cost of future replacements = £619807	

LESS	Proportion of priced saved on own car at each replacement 0.64 (page 361, PNBA 2017/18) x new cost of each replacement Proportion of priced saved at each replacement saved 0.64 x £40000 = £25600 LE for a 30 year old with a rated age of 45 is 48.34. For ease, round it to 48 (page 86, PNBA 2017/18) 48 years with a replacement saved period of 4 years is calculated from Table A5 (page 41, PNBA 2017/18) as; £25600 x 14.67 = £375552	
	Cost of future replacements saved = £375552	
	Net future costs of wheelchair accessible/adapted vehicle = £619807 – £375552 = £244255	244 255
	Plus extra annual running costs of, say, £2000pa x 48.34	96 680
Additional cost of holidays	Allow £11k pa x 48.34	271 700
Physiotherapy	Inclusive of travelling expenses, allow £125 per hour x 24 hourly sessions per year x 48.34	145 020
Occupational therapy	Inclusive of travelling expenses, Allow £100 per hour x 6 hourly sessions per year (less hours due to established needs) x 48.34	29 004
Chiropody	To include travelling expenses, allow £45 per hour x 12 hourly sessions per year x 48.34	26 103
Gym membership	Allow £1250 pa x 48.34	60 425
Accommodation	Assume value of current property at £1.5m Assume value of required property to be £2m Difference is £500,000 x 3.5% (commercial mortgage rate) x 48.34	845 950
	Assume removal costs, solicitors fees, architects and surveyors fees of	75 000
	Assume adaptation costs of	350 000
	Assume extra running costs (eg council tax, insurance) of £3000 pa x 48.34	145 020
Future loss of earnings	£2m pa x 41	82 000 000
Loss of employers pension contributions	£400000 pa x 41 (This assumes the employer contributed approx 10% of gross salary and applies the same employment contingencies / rationale as for earnings).	16 400 000
Claimant's legal costs	Allow	800 000
Defendant's legal costs	Allow	300 000
		TOTAL £128 132 965



Notes:

Gratuitous care was provided only for the first 2 years after the accident
The claimant received state funded care / rehabilitation for only 2 years post-accident
The claimant returned home 2 years after the accident

Privately funded Case Management started 2 years after the accident
Privately funded Physiotherapy started 2 years after the accident
Privately funded Occupational Therapy started 2 years after the accident
Privately funded Chiropody started 2 years after the accident

Aids and Equipment / Assistive Technology were bought 4 years prior to trial and will need replacing every 7 years
A wheelchair accessible / adapted vehicle was bought 4 years prior to trial and will need replacing every 4 years

The claimant's existing property was adapted 2 years after the accident
The claimant will move into single storey accommodation the day after the trial

No allowance has been made for a hydrotherapy pool.

In later life, less carers expenses will be incurred and fewer holidays taken.
A small deduction from the reserve would therefore be reasonable to reflect this.
Own DIY and gardening would also not be carried out in the last years of life and so a reduction could be argued for.

© 2018

Swiss Re
All rights reserved.

The entire content of this brochure is subject to copyright with all rights reserved. The information may be used for private or internal purposes, provided that any copyright or other proprietary notices are not removed. Electronic reuse of the data published in brochure is prohibited.

Reproduction in whole or in part or use for any public purpose is permitted only with the prior written approval of Swiss Re Institute and if the source reference "Swiss Re, Catastrophic injury How bad can it get?" is indicated. Courtesy copies are appreciated.

Although all the information used in this brochure was taken from reliable sources, Swiss Re does not accept any responsibility for the accuracy or comprehensiveness of the information given or forward looking statements made. The information provided and forward-looking statements made are for informational purposes only and in no way constitute or should be taken to reflect Swiss Re's position, in particular in relation to any ongoing or future dispute. In no event shall Swiss Re be liable for any loss or damage arising in connection with the use of this information and readers are cautioned not to place undue reliance on forward-looking statements. Swiss Re undertakes no obligation to publicly revise or update any forward-looking statements, whether as a result of new information, future events or otherwise.

Swiss Reinsurance Company Ltd
Mythenquai 50/60
P.O. Box
8022 Zurich
Switzerland

Telephone +41 43 285 2121

Fax +41 43 282 2999

www.swissre.com