

YOU AND THE LAW

CAR CRASH? COMPENSATION FOR DEPRESSION

If you've been hurt in a car accident and it's at least partly someone else's fault, you're probably entitled to get compensation from the other driver (who usually has some liability insurance coverage).

The aim of such compensation is to put you in the same, but no better, position you would have been in if the accident hadn't occurred. If you're partly at fault, your compensation will be reduced accordingly.

But what if your injuries are mostly psychological? For long-lasting depression and chronic pain, you may still be entitled to substantial compensation.

Linda (names changed) was 58 when she was hurt in a car crash with Manny in 2010. Manny turned left in front of her at an intersection in Surrey, and the vehicles collided. Both vehicles were seriously damaged by the impact and had to be written off.

Linda and Manny disagreed who was at fault. But relying on an independent witness and other objective sources, the court decided both Manny and Linda were equally to blame. Unfortunately, Linda's injuries were long lasting and she still suffered at the trial four years later in 2014.

Before the accident, Linda was an active outgoing person. She used to go camping, hiking, fishing and, in later years closer to the accident, "ghost hunting" with friends.

Back in 1992, she had a workplace back injury that needed two back surgeries. Afterwards, she could no longer lift heavy things and it slowed down her activities. Around that time, she also suffered from depression due in part to her brother's drowning death and her son's schizophrenia diagnosis.

But she carried on, continued working at a hospital until 2000, undertook a major renovation project after

moving to the Lower Mainland in 2000, and took in homestay students. And she still did things like going on a motor bike trip to the States in 1999. She raised her two children mostly on her own and enjoyed looking after her grandkids.

After the car accident, she was a changed person. She had chronic headaches and neck, shoulder and back pain from the accident. She had serious memory loss episodes. One time she forgot her grandkids after taking them to a park on an outing. Another time she forgot a boiling pot on a friend's stove. Her daughter couldn't trust her looking after the grandkids anymore. She was also short-tempered and irritable with them now, though never before.

The court looked at the psychiatric evidence and concluded that Linda's depression more than 20 years earlier was in remission and wasn't a factor before the car accident. By the time of trial, however, she was diagnosed as having a major depressive disorder and a somatic symptom disorder, resulting in her experiencing chronic pain. The court attributed both of these conditions to the car crash with Manny.

The court awarded Linda damages of \$160,000 for her depression and chronic pain, plus over \$155,000 for other things like loss of future earning ability and lost past wages. Because the car accident was half her fault, though, that amount was reduced by half.

See your lawyer if injured in an accident.

This column provides information only and must not be relied on for legal advice. Please call Stephen W. Turner at (250) 868-8801 for your free, no obligation, initial consultation.

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