

No need for a friend in court

Personal injury victims are losing out on compensation cash by needlessly employing a solicitor

BY LAW, anyone intending to seek compensation for a personal injury, other than any that has arisen out of medical negligence, must first make an application to InjuriesBoard.ie, formerly known as the Personal Injuries Assessment Board (PIAB).

This can be done directly by the person concerned; the cost of an application comes in at €50 and no legal costs are involved. However, it is understood that thousands of people every year continue to lodge their application with InjuriesBoard.ie via a solicitor, thus needlessly incurring legal costs running into four-figure sums which must be paid out of their settlement.

InjuriesBoard.ie was set up five years ago as the PIAB with the aim of reducing the considerable costs associated with processing compensation claims. Before the board was established the only way of processing a compensation claim for personal injury was to enter litigation and 30,000 such cases used to be initiated annually.

The system was adversarial in nature and consequently very inefficient and time-consuming, with claims taking an average three to four years to settle. Overhead litigation costs added 46% on top of the actual compensation awarded and insurance companies were passing this cost onto the consumer in the form of higher insurance premiums.

Handling personal injury claims including fatalities relating to motor accidents, workplace accidents and claims involving public liability, InjuriesBoard.ie is charged with assessing how much compensation is due to an injured party.

Claimants submit an application form online or by post along with the €50 fee. However, an additional medical assessment form completed by their doctor must also be submitted by post. The respondent will then be contacted by InjuriesBoard.ie to confirm whether or not

they consent to the board's assessment of the claim. Because most claims are relatively straightforward, the majority of people agree to this. If they refuse to consent to the process, the claimant is given leave to pursue the respondent through the courts.

Using medical reports submitted by your doctor and an independent medical examiner's report organised by InjuriesBoard.ie, the claim is assessed and general and special damages are awarded. General damages cover compensation for pain and suffering resulting from the injuries sustained in the accident, while special damages cover expenses incurred including loss of earnings, medical expenses, out-of-pocket expenses and vehicle damage costs and, in serious cases, future expenses and loss of future earnings.

The level of compensation for pain and suffering is defined by the Book of Quantum which is also used by the courts, so awards are similar. If both parties agree to the result of the assessment, an 'order to pay' is issued to the respondent or insurer, though both parties can pull out and initiate litigation.

By using this system, the length of time taken to process cases has been reduced significantly from three years to nine months and the overhead administration costs have dropped from 46% to 8% in cases assessed by the board. For instance, a recent claim in which a father of two young children was fatally injured in a road accident took nine months to settle with more than €560,000 awarded and the cost of handling the claim came to just €1,584.

It is estimated that overall savings achieved since the board's inception are between €200m and €250m and should increase significantly, with annual savings now in the region of €100m. It has also relieved some of the pressure on the courts system.

The very tangible effect of that success

has been in the reduced premiums enjoyed by consumers in some but not all areas over the past five years, according to Brian McNelis, director of general services at the Irish Brokers Association.

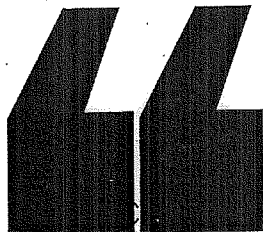
“The concept of the injuries board and the work done to reduce legal costs in relation to injury claims has led to an overall reduction in the cost of claims and as a result insurance premia for specific insurances, notably public liability, employers’ liability and motor insurance. Unfortunately, non-injury claims make up the bulk of insurance claims – fire, accident, flood, etc – and we have seen an increase in the frequency and cost of these which has impacted on the cost of insurance. The achievements of the injuries board have ultimately led to better consumer pricing, not just on motor insurance but other products where claims would involve legal costs, for example liability products,” he says.

The most recent figures available show that InjuriesBoard.ie made assessments totalling €217m in 2008 with awards made at the same level as the courts but processed in a quarter of the time.

The majority of awards – 65% or €140m of the total – were for less than €38,000 with €77m (35%) awarded more. However, this is likely to change significantly in the next few years as more people with very significant claims opt to avoid litigation; last year saw a 47% jump in the number of awards for more than €38,000. Paula Byron, chief executive of the board, said it were seeing no evidence yet of a recessionary surge in personal injury claims.

“By delivering these awards four times faster and with a low administration charge, the InjuriesBoard.ie model has delivered direct and indirect savings of between €200m and €250m to the economy. At a time when the country is facing enormous challenges, the need to maintain and, if possible, expand these savings is never greater,” she says.

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