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STATUTORY ACCIDENT BENEFITS (SABs)
POTENTIAL RECOVERY REGARDLESS OF FAULT
FOR ACCIDENTS AFTER SEPTEMBER 1, 2010
 Prepared by Derek Nicholson

(April 2010)

TYPE OF BENEFIT	MINOR INJURY GUIDE ("Minor Injury" means a sprain, strain, whiplash associates disorder, contusion, abrasions, lacerations) s.18(1)(2)	NON - CATASTROPHIC INJURIES:	CATASTROPHIC INJURIES Catastrophic is <u>strictly</u> defined in the legislation. It includes paraplegia or quadriplegia, loss of <u>one</u> limb (as defined), loss of vision in both eyes and serious brain injury (as defined). Definition:s.3(2)-(6)
<p>MEDICAL AND REHABILITATION</p> <p>s. 14, 15, 16, 18 & 20</p> <p>Less costs of assessments (including insurer examinations) s.18(5)</p> <p>\$250 Emergency payout for goods without treatment & assessment plan s.38(2)(c) (ii)</p> <p>Or Emergency expenses within 5 days of accident s.38(2)(6)</p>	<p>Maximum of \$3,500 (including assessment, examination and report cost s. 18(1))</p> <p>Can be increased to \$50,000 if compelling evidence that a pre-existing condition will prevent maximal recovery s. 18(2)</p> <p>Not entitled to home assessment s.25(2)</p>	<p>Up to \$50,000.00 (including assessment, examination and report costs) s.18(3) for expenses incurred within 10 years after accident if the victim was at least 15 years old [s. 20(1)(a)] or if less than 15 when injured, then benefit payable until 25th birthday [s. 20(1)(b)] *</p> <p>In home assessments allowed s.25(2)</p> <p>Requires Insurer approved Assessment & Treatment Plan 38(2)</p> <p>Can increase with optional coverage to \$100,000 s. 28(1)3 or \$1,100,00 s. 28(1)5(i)A</p>	<p>Up to \$1 million (including costs of assessment, examination and report) – s.18 & 20 for life *</p> <p>Can obtain optional coverage up to \$2 million with combined attendant care and med/rehab of \$3 million – s.28(1)5(i)A</p> <p>In home assessments covered – s.25(2)</p> <p>Requires Insurer approved Assessment & Treatment Plan 38(2)</p>
<p>ATTENDANT CARE</p> <p>s..14, 19, 20(2), 25(1)(4), 28z91)4, 28(1)5(ii)(iii)</p>	<p>Not available s. 14</p> <p>Not available even with optional coverage s. 14.2</p>	<p>Up to \$3000 per month to a max of \$36,000 for care required for first 104 weeks after the accident s.19(3) & 20(2) *</p> <p>or</p> <p>Optional increase of limit \$72,000 25(1)4 or 1,172,000 under s.28(1)5(ii)</p> <p>OT or RN now must complete Attendant Care Assessment Form 1. No one else can s. 42 (1)(b)</p>	<p>Up to \$6,000 per month to a maximum of \$1 million unless optional coverage up to \$2 million purchased, up to a total of \$3 million - s. 18(2)(b), 19(3) *, 28(1)(5)(ii)B</p> <p>OT or RN now must complete Attendant Care Assessment Form 1. No one else can 42 (1)(b)</p>
<p>COST OF ASSESSMENTS, EXAMINATIONS AND PREPARING REPORTS</p> <p>S.18(5)</p>	<p>Paid out of \$3,500 except s.44 Insurer Examination and cost of income calculation reports under s. 7(4)</p> <p>Absolute cap 2000 s.25(5)(a)</p> <p>Insurer shall not pay for Life Care Plans s.25(5)(b)</p>	<p>Paid out of Med/Rehab limits 18(5) except 44 & 7(4) Insurer Examinations</p> <p>Insurer shall not pay for Life Care Plans s.25(5)(b)</p>	<p>Paid out Med/Rehab limits 18(5) except 44 & 7(3) Insurer Examinations & reports</p> <p>Insurer shall not pay for Life Care Plans s,25(5)(b)</p> <p>Note: Forensic Accounting reports to a max of \$2,500</p>

HOUSEKEEPING AND HOME MAINTENANCE s.23	Not available unless option purchased 28(2)(ii)	Not available unless option purchased for 2 yr period – s.28(1) 2(ii)	Up to \$100 per week reimbursable expense for life – s.23
INCOME REPLACEMENT s.6, 7 Not yet a corresponding tort amendment from 80% of net up to Trial	Available	70% of gross income to a max. of \$400 per week - one week deductible applies. s.7(2) * Can purchase increased optional coverage of \$600, \$800 or \$1,000 per week s.28(1)1	70% of gross income to a max. of \$400 per week - one week deductible applies for life * Can purchase increased optional coverage of \$600, \$800 or \$1,000 per week s.28(1)1
VISITOR EXPENSES s.22	Payable for 104 weeks for spouse, children, parents, grandparents, siblings, cohabiting person s.22(1)	Payable for 104 weeks for spouse, children, parents, grandparents, siblings, cohabiting person s.22(1)	Lifetime
LOST EDUCATIONAL EXPENSES s.21	Up to \$15,000 for lost educational expense incurred if in school for tuition, books, equipment, room and board s.21		
DAMAGE TO CLOTHING GLASSES HEARING AIDS ETC. s.24	Payment for clothing, prescription eyewear, dentures, hearing aids, prosthetics and other medical or dental devices damaged in accident s.24 Note: Payments are for repairs or replacements		
TRANSPORTATION EXPENSES s.3(1)	Allowed for transportation only after first 50 km of a round trip s.3(1)(b)	Allowed for transportation only after first 50 km of a round trip s.3(1)(b)	Allowed for whole trip w/o 50 km deduction s.3(1)(b)
CAREGIVER BENEFITS	Not available - s.13 unless option purchased s.28(1) 2(i)	Not available unless option purchased for 104 weeks if a substantial inability to engage in care giving activities s.13*	If “substantially unable to engage in activities of daily living” then entitled to up to \$250 per week for 1 st person then \$50 per week for others in need of care for life – s.13
CASE MANAGEMENT s.17	Not Allowed s.17(1)	Not Allowed unless option purchased s.17(1)(b), 28 (1) 5 *	Allowed – s.17(1)(a)
NON EARNER BENEFITS		If you do not qualify for an income replacement benefit and you have a complete inability to carry on a normal life after the first 26 weeks you could be entitled to this weekly benefit.	Same as non-catastrophic injury
DEATH BENEFITS & FUNERAL EXPENSES	Death benefits are available to a surviving spouse and dependants as defined Funeral benefit of up to \$6000 is also available 27(2)(a) unless optional increase to \$8,000 s.28(i) 6(iv)	Death benefits are available to a surviving spouse and dependants as defined Funeral benefit of up to \$6000 is also available 27(2)(a) unless optional increase to \$8,000 s.28(i) 6(iv)	Death benefits are available to a surviving spouse and dependants as defined Funeral benefit of up to \$6000 is also available 27(2)(a) unless optional increase to \$8,000 s.28(i) 6(iv)

* Note – Optional increased coverage available through your insurer.

** Note – Minor Injury Guideline not released as at April 26, 2010 expected to be released June 28, 2010.

IMPORTANT: The above information is intended as a guide only. It is recommended that you contact a lawyer for advice. The legislation also requires that you notify your insurer within 7 days after the accident.



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A. POTENTIAL INJURY CLAIMS (Other than Motor Vehicle Accidents noted below at B)

Injuries may occur for a variety of reasons other than motor vehicle accidents. These can include but are not limited to slip and fall accidents, defective products, environmentally caused injuries or assault & battery. You are entitled to claim against a responsible party for these injuries. There are no restrictions with respect to seriousness of the injury and no deductible applies. Your out of pocket expenses are recoverable which include such things as loss of income, property damage, medical expenses, housekeeping, and babysitting. You are entitled to claim for your Economic Loss both past and future and no deductible applies. This can result in substantial claims.

The assessed value of your injury is based on previous awards as established by the courts. Note: The Courts have determined that the maximum compensation for pain and suffering in Canada for any injury will be approximately \$324,000 as of 2010.

B. MOTOR VEHICLE ACCIDENTS

If you are injured in a motor vehicle accident in Ontario you can claim for the following:

Pain & Suffering – General Damages

In order to be compensated for pain and suffering in Ontario your injuries must be of a serious and permanent nature as defined in the legislation. If your injury qualifies as a serious injury the value is assessed and then a \$30,000 deductible is applied. There is no deductible if the injury is assessed at \$100,000 or more. Optional insurance will be available September 1, 2010 to reduce the \$30,000 deductible to \$15,000.

You are still restricted by the upper limit of compensation as set by the Courts in 2010.

You can also claim for your past and future loss of income if you are unable to return to your previous occupation.

Economic Loss: You are entitled to recover your loss of income after the first week deductible up to a maximum of 80% of net income less any amount received from the Accident Benefits carrier. This amount is available as long as your injuries prevent you from working. Recovery of this amount is not subject to the definition of permanent and serious injury.

FAULT (applicable to all injury claims)

You will recover based on your degree of fault. If you are not at fault you will recover 100% of damages however if for example you are 50% at fault you will recover 50% of your damages from the other party.

FAMILY LAW ACT CLAIMS (applicable to all injury claims)

Immediate family (as defined in the act) can claim for the loss of care guidance and companionship of the injured party. (A deductible of \$15,000 applies if the claim is as a result of a motor vehicle accident.)

Note: All accidents occurring during the course of your employment are subject to WSIB legislation. Consult legal counsel in these cases to determine your rights.