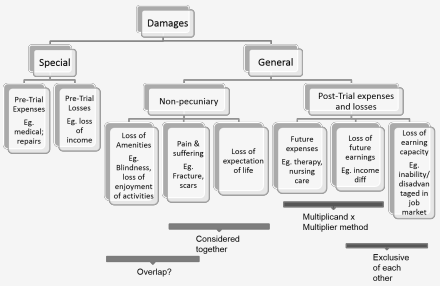
Types of Damages



Special Damages

Special damages can be easily quantified – usually out of pocket expenses/ losses already incurred

Costs of repair of damaged property

Costs of replacing destroyed property

Medical bills

Hospitalisation bills

Transport costs

General Damages

Pecuniary (Post-trial)	Non-percuniary (pre and post trial)
Future Expenses	Pain and Suffering
Loss of Future Earnings	Loss of Amenities
Loss of Earning Capacity	Loss of Expectation of Life

Quantifying future expenses

E.g. future transport expenses, future nursing care expenses

Multiplier and multiplicand approach

Multiplicand – proof required on the extent and necessity of such expenses

Quantifying future expenses (cont)

Multiplier – depends on circumstances prevailing at date of trial e.g. Plaintiff's age, type of job, length of working life and length in which expenses are required.

Discounted for contingencies and for present value

No interest awarded for future expenses

Quantifying Loss of Future Earnings

Compensate for reduction in existing earning capacity as a result of the disability suffered

Multiplicand – Difference between pre-accident income and present income on an annual basis less necessary deductions for income tax

Multiplier – number of years the Plaintiff will suffer the loss of earning capacity

Discounted for contingencies and for present value

No interest awarded for loss of earning capacity

Loss of future earnings not awarded where:

(a) Plaintiff's income at time of assessment is the same or more than his pre-accident income

(b) there is no measurable annual loss

Quantifying Loss of Earning Capacity

Compensates for risk of loss of present employment and the consequent disadvantage in competing in the labour market for another equally well-paying job

Usually awarded where:

(a) at time of trial, the Plaintiff suffered no loss of earnings but if he were to lose employment he would be at a disadvantage

(b) there is no evidence of the Plaintiff's earnings for the Court to calculate loss of future earnings e.g. where party is a young child

Quantifying Loss of Earning Capacity (cont)

Court will take into account factors relating to the Plaintiff and his earning capacity

Personal factors: Plaintiff's age, gender, skills and training, nature of Plaintiff's disabilities

Earning Capacity: Type of job pre-accident, the general employment situation for this type of job, the kind of jobs Plaintiff can hold at present or in future and the earnings he can command.

Court will award a lump sum "in the round" representing this loss of earning capacity

No deduction of income tax

No interest awarded for future expenses

Generally Court will NOT award both loss of future earnings and loss of earning capacity

When deciding on the quantum for loss of earning capacity, the Court will take into account that an award for loss of future earnings has already been made

Quantifyiing Lost years

AOD v AOE [2015] 2 SGHC 272

Plaintiff was 9 years old at time of car accident.

Became quadriplegic who requires constant care.

Life expectancy reduced to 38 years of age.

Held :

Living Plaintiff can make a "lost years" claim

Working life = 16 years (38-22)

Multiplier = 9 years

Multiplicand = $1,723.24

"lost years" = 24 years (62-38)

Multiplier = 8 years

Multiplicand = $1,723.24 x 40%

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Quantifying Pain and Suffering

Approach to Quantification

1. Identify types of injury by reviewing the medical report

2. Understand the severity of the injury from the medical report e.g. possible disability

3. Look up range value in precedents: See Guidelines for the Assessment of General Damages in Personal Injury Cases, Lawnet (Damages for Personal Injuries)

4. Consider effect of multiple injuries: Global or component approaches

What if there are multiple injuries?

Court may adopt one of the following approaches :

(a) Global Approach: Award a total amount to cover all injuries

(b) Component Approach: Award separate amounts for each injury claimed

(c) Mixed Approach: Award separate amounts for each injury claimed and match the total against a global award

Whether the injuries are related to the same part of function of the body will be a key factor in determining which approach is to be used.

Quantifying Loss of Amenities

Compensates claimant's inability to pursue the same activities which he used to before his disability

E.g. change in personality, unable to pursue leisure activities, loss of marriage prospects

Pain and Suffering and Loss of Amenities usually quantified together

Loss of Amenities only quantified separately in extreme cases e.g. total blindness, paraplegia

Quantifying Loss of Expectation of Life

Not separately assessed but part of the total award for pain and suffering

Section 11 Civil Law Act

Abolition of right to damages for loss of expectation of life

11. —(1) In any action for damages for personal injuries, no damages shall be recoverable in respect of any loss of expectation of life caused to the injured person by the injuries, except that if the injured person's expectation of life has been reduced by the injuries, the court, in assessing damages in respect of pain and suffering caused by the injuries, shall take into account any suffering caused or likely to be caused to him by awareness that his expectation of life has been so reduced..

(2) In subsection (1), any reference to damages in respect of loss of expectation of life does not include damages in respect of loss of income.

INTEREST AWARDED

SPECIAL DAMAGES	GENERAL DAMAGES
3% per annum from date of accident to date of trial	Loss of Amenities, Pain and suffering - 5.33% per annum from date of service of writ to date of trial
	Everything else - no interest awarded

Claim for damages

Special Damages - Pre-Trial Pecuniary loss

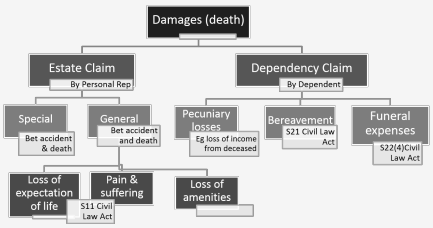
General Damages - Non-pecuniary loss and post-trial pecuniary loss

Purpose is to compensate not punish

Aim is to put the injured party in the same position he would have been if he had not suffered the wrong

Burden of proof lies on party claiming loss

Estate vs Dependency Claim



Funeral Expenses

Section 22(4) Civil Law Act

If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.

Claimed as special damages and has to be particularised

Bereavement

Parties who can claim for bereavement

Section 21 Civil Law Act

21. —(2) A claim for damages for bereavement shall only be for the benefit of such of the following persons as survive the deceased:

(a) the wife or husband of the deceased;

(b) where there is no spouse by or for whom a claim can be made under paragraph (a), the children of the deceased;

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Bereavement (cont)

(c) where there is no person by or for whom a claim can be made under paragraph (a) or (b), the parents of the deceased or, if the deceased was illegitimate, his mother;
(d) where there is no person by or for whom a claim can be made under paragraph (a), (b) or (c), but the deceased was at the date of his death a minor, any person who during any marriage to which that person was a party treated the deceased as a child of the family in relation to that marriage; or
(e) where there is no other person by or for whom a claim can be made under this subsection, any brother or sister of the deceased.
Section 21 Civil Law Act
(3) The right of a person to claim under this section for damages for bereavement shall not survive for the benefit of his estate.
(4) Subject to subsection (6), the sum to be awarded as damages under this section shall be $15,000.
(5) Where there is a claim for damages under this section for the benefit of 2 or more persons, the sum awarded shall be divided equally between them (subject to any deduction falling to be made in respect of costs not recovered from the defendant).
(6) The Minister may, by order published in the Gazette, substitute the sum specified in subsection (4) with such other sum as he thinks fit.

Pecuniary Loss

Multiplier and Multip-licand Approach	Deduct deceased's expenses from his net income: Balance is presumably for his dependants

Possible dependency claims

Pecuniary Losses	Bereav-ement	Funeral Expenses

What is a dependant?

Section 20(8) Civil Law Act
In this section, “dependant” means —
(a) the wife or husband or former wife of the deceased;
(b) any parent, grandparent or great-gra-ndparent of the deceased;
(c) any child, grandchild or great-grandchild of the deceased;
(d) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage;
(e) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.

Estate Claim

Claim for loss of expect-ation of life	NO claim for "lost years"	Claim for Special Damages	Claim for General Damages
		Medical expenses	Pain and suffering

Estate Claim (cont)

Transportation Expenses	Loss of Amenities

Quantification for fatal accident claims

Estate Claim	Dependency Claim
The Deceased's estate may sue the wrongdoer in place of deceased as he would if he had not died	Dependant's of deceased sue wrongdoer for financial loss suffered as a result of the death of deceased

Limitation on Action

Limitation Act (Cap.163)
Section 24A(1) read with Section 24A(3)(a)
Any action for damages for negligence, nuisance or breach of duty
Where the damages claimed do not include personal injury claims, the action shall not be brought after the expiration of the period of 6 years from the date on which the cause of action accrued
Section 24A(1) read with Section 24A(2)
Any action for damages for negligence, nuisance or breach of duty
Where the damages claimed consist of or include damages in respect of personal injuries to the plaintiff or any other person, shall not be brought after the expiration of —
(a) 3 years from the date on which the cause of action accrued; or

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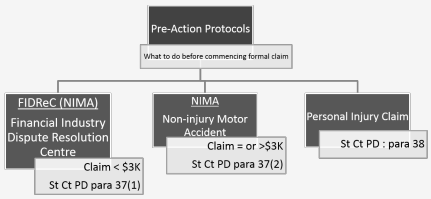
Limitation on Action (cont)

(b) 3 years from the earliest date on which the plaintiff has the knowledge required for bringing an action for damages in respect of the relevant injury, if that period expires later than the period mentioned in paragr-aph (a).
Section 24A(4)
(5) Knowledge that any act or omission did or did not, as a matter of law, involve negli-gence, nuisance or breach of duty is irrelevant for the purposes of subsectio-ns (2) and (3).
(6) For the purposes of this section, a person's knowledge includes knowledge which he might reasonably have been expected to acquire —
(a) from facts observable or ascertainable by him; or
(b) from facts ascertainable by him with the help of appropriate expert advice which it is reasonable for him to seek.
(7) A person shall not be taken by virtue of sub-section (6) to have knowledge of a fact ascertainable only with the help of expert advice so long as he has taken all reasonable steps to obtain (and, where appropriate, to act on) that advice.

Preaction protocols

Special pre-action claim procedure applies for non-injury motor accidents (NIMA)
In the interest of saving time and costs
Depending on the quantum of the claim, the following applicable protocol should be complied with:
FIDReC Pre-action Protocol (low level NIMA claims)
Non-injury Motor Accident (NIMA) Pre-action Protocol
Personal Injury Claims Pre-Action Protocol

What to do be4 commencing formal claim



FIDReC Pre-action Protocols

Pre-action Protocol for Management of Low-Value Non-injury Motor Accident Cases by the Financial Industry Dispute Resolution Centre Ltd (FIDReC)
This protocol applies to non-injury motor accident claims where:
Quantum of damages before apportionment of liability is below $3,000 excluding survey fees, interests, costs and disbursements; and
Defendant is claiming under his policy i.e. against the insurer

NIMI pre-action protocols

Pre-action Protocol for Non-injury Motor Accident (NIMA) Cases
This protocol applies to:
NIMA claims of $3,000 and above

Personal Injury Claim Pre-action Protocols

The object of this protocol is to streamline the management of personal injury claims and promote early settlement of such claims.
It prescribes a framework for pre-writ negotiation and exchange of information.

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