

# Eight Factors That Affect Personal Injury Settlements

How much is a broken leg worth to you?

Not exactly a comfortable question, is it? Nevertheless, attorneys who represent victims in personal injury cases have to grapple with those kinds of issues on a daily basis.

Calculating personal injury settlements is far from an exact science. Although there's no foolproof formula, understanding the factors that tend to affect the value of personal injury cases can help lawyers manage their clients' expectations and work through negotiations more efficiently and effectively.

For solo practitioners and midsize firms that lack the scale of larger adversaries, cultivating a well-honed ability to project personal injury settlement values can turn into a competitive advantage. It allows them to avoid unnecessary rigmarole and build the most effective arguments on behalf of their clients.

Here are eight major factors that affect settlements in personal injury cases.

## Severity of the Injury

Naturally, accidents that result in [more severe injuries](#) tend to produce larger settlements because of the pain and suffering involved. So-called [hard injuries](#), such as broken bones and spinal cord damage, usually raise the value of settlements, as opposed to soft-tissue injuries like sprains or bruising. Likewise, if injuries are permanent, victims can generally expect to be awarded a larger settlement. These include brain trauma, disfigurement, diminished mobility or the permanent loss or use of a body part.

## Disruptions

If the injuries from an accident dramatically disrupt your clients' daily lives, they will likely produce a larger personal injury settlement. For example, some injuries make it more difficult for the victim to perform everyday activities such as walking or standing. The same goes for accidents that leave victims unable to play sports, travel or work certain jobs.

All other things being equal, victims whose lives don't change dramatically after an injury will receive less than those whose lives do.

## Treatment and Recovery

Larger settlements generally occur when post-injury medical treatment involves doctors and hospitals, as opposed to physician assistants or chiropractors. (Enlisting reputable doctors is key.) Reconstructive surgeries are also associated with cases that involve high settlement values.

Similarly, the duration of a recovery period matters. Longer recoveries often entail a significant number of follow-up appointments and prescriptions for medical treatment, for instance. Cases with these indicia of longer recovery periods tend to have elevated settlement values. This also explains in part why soft injuries generally result in lower settlements.

## Certainty of Liability

The factors we've discussed so far relate to the impact of alleged injuries. But of course, there's a preliminary question: is the defendant even [liable for those injuries](#)? The certainty with which a party can answer that question has a great impact

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on settlement value. In cases in which the other side is clearly at fault for a victim's injuries, settlements will usually hit the higher end of the range for a given case.

Arguing liability questions effectively, then, is where personal injury attorneys can add great value for their clients. By taking time to identify and interview credible witnesses and compile appropriate evidence, attorneys can help their clients make the strongest cases possible regarding liability.

## Emotional and Mental Trauma

The pain resulting from accidents often goes beyond physical injuries. Emotional trauma in the form of anxiety or depression can be equally debilitating in the aftermath of an accident. Of course, proving that clients are suffering psychological trauma is a different matter—one that can require meeting a high evidentiary bar. To impact a personal injury settlement, it usually requires input from reputable mental health professionals who can testify to an accident's longer-lasting psychological effects on a client.

## Newsworthiness

The old saying goes that there's no such thing as bad publicity. Any person or company who has been burned by negative headlines resulting from a personal injury case can attest to just how wrong that trope actually is. When an injury lawsuit has the potential to attract bad publicity, especially for high-profile defendants such as national chain businesses, settlements can skyrocket. The bad press is just too costly for the defendant to risk the scrutiny.

## Cost of Litigation

Clerical work. Deposing witnesses. Hiring experts to address technical issues. Those costs can add up quickly for defendants, especially in cases with lots of witnesses or any number of contested scientific questions. In such cases, defendants may be willing to settle at a higher price to avoid running up their defense costs.

On the other hand, if plaintiffs lack the resources to litigate complex cases effectively, deep-pocketed defendants can squeeze them to cut down on the settlement's value.

## "De-risking" the Case

When cases pass certain key milestones, the value of a settlement increases. The milestone events in a case vary, but often include getting past a motion to dismiss the case or taking an important deposition. The more hurdles overcome by a plaintiff, the better the settlement. Smart advocates can use the time period immediately before a milestone event to place pressure on the other side to settle. If the adversary is nervous about getting across that next milestone, they may be eager to compromise.

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