

ROAD TRAFFIC ACCIDENT PROCESS (RTA)



In view of the recent drop in temperatures and the treacherous condition of the roads- road traffic accidents are suitable topic to discuss. In particular we will discuss the steps we take to process your claim if you are involved in a collision.

WHAT STEPS DOES LYNCH SOLICITORS TAKE IN A ROAD TRAFFIC ACCIDENT CASE?

Phase 1: Gathering Information

The early months of your case will be largely taken up with the process of gathering all the information we need to ensure that we achieve for you the best possible outcome.

We will note all necessary details regarding the accident and your injury, talk to witnesses, instruct an engineer if necessary to document the accident scene, talk to investigating Garda or any other emergency services that may be of assistance, liaise with your insurance company and begin the process of getting detailed medical reports on your injuries.

At the same time we will be opening communications with the other side, their solicitors and their insurers to ensure that their investigation is also progressing. The efficiency of the other side is just as important as our efficiency here at Lynch Solicitors in ensuring that your case progresses well and while the old saying that you can only do your own job well applies, it does no harm to keep an eye on what the other side are up to.

It helps avoid some of the delays that often hold up cases in their way through the litigation process. Litigation is the general legal term for resolving disputes through the Personal Injuries Assessment Board and the courts – it is the way that personal injury compensation cases are dealt with in Ireland.

Phase 2: Managing your application to the Injuries Board

Since 2004, the Personal Injuries Assessment Board (PIAB) has acted as a filter in all cases involving personal injuries in Ireland. The name has now changed to the Injuries Board.

PIAB was established with the objective of simplifying and making more efficient the whole personal injuries procedure with the dual aim of making the process faster and cheaper for insurance companies.

The Injuries Board does not replace the old Court system, it merely acts as a filter, settling some cases while letting the remainder through to the Court system.

Even before the Injuries Board was introduced, the vast majority of personal injuries cases were settled outside of Court and thankfully this is still the case.

Phase 3: Preparing and Issuing Court Proceedings

If your case is not settled or assessed by the Injuries Board – for whatever reason – we will then commence the court process on your behalf. This process involves taking the information we have on your case and drafting the initiating Court document.

This document varies depending on whether your case is to be dealt with in the Circuit Court or the High Court and this decision is based on the seriousness of your injury.

The difference between the Circuit Court and the High Court, in simple terms, is Circuit Court cases involve damages not in excess of €60,000 and cases involving damages in excess of that are commenced in the High Court.

Phase 4: Progressing your case

Once the initiating document is completed, it is issued by the Court Office and served on the other side or their solicitor. After that, there will be an exchange of a variety of Court documents dealing with the defence that

the other side will rely on in contesting the case, discovery of relevant documents or records and preparation for the hearing of your case.

Phase 5: Settlement Talks

At any time during this process you may be invited to settle your case and usually such settlement meetings take place in Courthouses. You will not have to speak with anyone other than Lynch Solicitors or your Barrister and we will negotiate settlement terms on your behalf.

Any offers that are made by the other side will be explained to you as will any costs that have to be paid by you. You will receive our opinion on the likely outcome of your case and our views on the correct compensation that the Court would give you.

Phase 6: Preparing for a Court Hearing

We will prepare documents for the Court, try to agree as many aspects of the case with the other side to make the case shorter and make arrangements for the attendance of necessary witnesses such as an engineer, doctors, witnesses to the accident, witnesses to prove your out-of-pocket expenses and any other experts that may be needed to prove different aspects of your case.

We will also prepare you for the hearing by explaining how the hearing will operate, explaining the types of questions that you may be asked, explaining who the various witnesses will be and in general trying to put you at ease.

Phase 7: Finalising Your Case

When your case has been settled or concluded in Court, there is still a lot of work to be done by us on your behalf. Our first priority is to get your settlement cheque in from the other side and pay this to you without delay. Usually this occurs within three weeks of your case being concluded.

WHAT IS THE INJURIES BOARD PROCESS IN ROAD TRAFFIC ACCIDENTS?

The Injuries Board Process

The first procedural step to be taken in any personal injuries case is the completion of the Injuries Board application. This is a form that sets out the essential information about your injury and the event that caused it.

We will endeavour to complete this application at the earliest possible date so that the ultimate resolution of your case will not be unduly delayed.

In order to complete this application, we will need at least one medical report from your doctor and this can sometimes take a few months to obtain.

Once the medical report is to hand, we can send this together with any other necessary supporting documentation to Injuries Board and your application is then logged and acknowledged by them.

The Injuries Board will then send the defendant (the person you say was responsible for causing your injury) a copy of the application and the medical and will ask them if they consent to allow the Injuries Board to put a value on your injury and make an offer.

This process can (and usually does) take 90 days. Following this period, if the defendant refuses to allow the Injuries Board to assess your injury, that is the end of the Injuries Board process.

The Injuries Board will end their involvement in your case by issuing us with an 'authorisation' which is, in effect, a permission to issue Court proceedings.

If the defendant consents to the Injuries Board assessing your case, they will send you to be examined by a doctor on their panel of doctors. They will also seek certified details of your out of pocket expenses and loss of earnings if you have suffered such losses.

The Injuries Board will then consider the detail of your injury and compare it to a reference book called the Book of Quantum. The Book of

Quantum contains guidelines on the appropriate level of damages for different types of injuries.

Of particular importance here is that the Book of Quantum does not give any advice on psychological or psychiatric injuries – which are quite common in accident cases – and such cases will therefore not be determined by the Injuries Board. Such cases are given authorisation so that Court proceedings can be issued.

If there are no psychological or psychiatric injuries, the Injuries Board will decide on a value for the injury and make a formal offer.

We will then consider that offer against our knowledge of how similar injuries are valued in the Court system and advise you on whether to accept or reject the offer.

If you decide to accept the offer, then the compensation will be paid and the case is at an end. If you decide not to accept the offer, the Injuries Board will not make an improved offer. They will issue an Authorisation so that the Court proceedings can be issued and the Injuries Board process is then at an end.

HOW MUCH WILL MY CLAIM BE WORTH?

A key difficulty with valuing personal injuries is that we cannot form a clear opinion on a value until we have a clear prognosis for your doctors.

For this reason, we will usually not be able to offer more than a general guideline on the value of your injury at the beginning.

As time moves on and we get more medical information, that opinion will be revised until we have enough information to value your injury with confidence.

Ultimately, it is up to the Court to fix the value of your claim. Should your case go that far, you should bear in mind that judges can vary greatly in the amount of compensation that they award.

HOW LONG BEFORE MY CASE WILL BE HEARD?

Most people are aware that it will take a certain length of time before a case comes up for hearing in the Courts. These delays are due primarily to the fact that there are only a limited number of judges.

Another reason is that some cases are not ready to be heard by the Court for a time and this is particularly so where the injuries have been severe – it can take time for the person to recover and until s/he has recovered sufficiently, or their condition has stabilised, the case should not be heard.

On average cases in the District Court tend to take about 6 months; in the Circuit Court, 2 years and in the High Court, 2 or 3 years.

More complicated cases can take longer.

DOES THE CASE HAVE TO GO TO COURT?

As a general rule, the majority of cases are settled without going into Court. However, they are only settled provided that you are agreeable to accepting the figure that is offered in full and final settlement of your claim. We will advise you fully before you make this decision.

FOR MORE INFORMATION

Tel: 052- 612 43 44

Address: Jervis House,
Parnell Street,
Clonmel,
Co Tipperary

Email: info@lynchsolicitors.ie

Website: www.lynchsolicitors.ie



www.twitter.com/LynchSolicitors



www.facebook.com/LynchSolicitors



www.linkedin.com/company

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