

John Burgoyne



Personal Injury: An Innovative Approach

Q I have been involved in a motor vehicle accident and want to settle my claim with ICBC. What is my claim worth? The adjuster has offered me \$x. Is that fair?

A It is impossible for a lawyer to provide an answer or useful advice over the telephone on the *quantum*—the “damages” or monetary value of an insurance claim. Many factors come into play. The amount of further information needed may be substantial, depending on the circumstances.

Calls like that one are not uncommon and can be quite time-consuming. Further, any lawyer giving advice places him or herself at risk if the enquirer acts upon that advice, however limited the advice may be.

With this in mind, Macaulay McColl has developed the Settlement Road Website—www.settlementroad.com—to which we direct all callers with these inquiries.

Designed to be user-friendly, the site allows the inquirer to access the portion of the site that addresses his or her specific concern. We provide a brief overview of ICBC, with some explanation of the various steps involved in making an insurance claim for damages, either as a result of someone’s negligence or in a situation where the fault lies with the injured party.

Settlement Road is a comprehensive source of information that provides a description of the

process for settling a claim and answers frequently asked questions.

- Do I have to see a doctor?
- Do I need a lawyer?
- What records do I need from the accident?
- How should I handle a meeting with ICBC?
- How do I settle my claim?
- How do I know what my claim is worth?

The danger lurking beneath the surface on all personal injury matters is not always immediately apparent to a lay person.

As a further service, we offer an online appraisal for a small fee. A person who wishes to know the value of his or her claim can complete a questionnaire application and submit it to us online. The inquirer will

- provide the basic information a lawyer will need to assess the value of the losses resulting from the accident; and
- submit a report from a medical practitioner. (The site provides the framework for obtaining this report.)

The latter, when submitted with the potential claimant’s own information, provides the basis for one of our lawyers to do an assessment

and provide an opinion that can be used with the insurance adjuster as a negotiating tool for settlement, without the claimant’s incurring the full expense of retaining a lawyer.

The questionnaire is designed to address a large number of cases that are not complicated and for which legal representation is likely not required. It allows an opportunity for an experienced lawyer to consider whether the claim really is simple and settleable without representation.

In simple terms, when a motorist is injured in an accident for which another party is responsible and, as a result, the individual has suffered minor soft-tissue injuries and recovered within a short time, the matter may not require legal representation. Here, a Settlement Road appraisal can be very useful.

The danger lurking beneath the surface on all personal injury matters is not always immediately apparent to a lay person. The following are some issues that may require fuller investigation.

1. Where there are pre-existing problems that have been aggravated or activated by the motor vehicle accident
2. Where psychological problems have developed or have worsened since the car accident, i.e., sleeplessness, depression, anxiety, flashbacks, mood changes, concentration or memory problems, headaches, ringing in the ears, or fatigue. Any accident

where there has been a loss of consciousness requires close scrutiny.

3. Any difficulties, physical or mental, that have persisted or gotten worse after a few months and, in particular, if symptoms are not resolved after 1 year
4. Any restrictions to vocational or avocational pursuits, in particular any limitations on the ability to work, change jobs, advance career, or expand a business. This includes any loss of part-time or extracurricular earnings.
5. Any injuries for which there will be costs associated with long-term care requirements or lifestyle adjustment

The above list is a synopsis and should not be considered complete. The key is to ensure all potential losses are identified and properly quantified. The latter frequently involves the need to retain expert opinions from various specialists—medical, vocational, and economic. Once these types of resources are involved, the case clearly must be managed by a lawyer with experience in the field.

The Settlement Road site allows these issues to be identified and enables our staff to properly advise potential claimants on the course of action they should take. Where we believe that an online application merits a fuller investigation, we generally will be happy to take instructions and provide a full service. ▲

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