

PERSONAL INJURY DAMAGES IN MISSOURI

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Wesley A. Cottrell



Proving your damages is a necessary part of proving a claim for personal injury. Negligence is the typical basis of all personal injury claims and the elements you must prove include duty, breach of that duty, causation, and injury (or damages). Without proving an injury, there is nothing to recover.

Economic vs. Non-Economic Damages

Damages can be divided two categories: economic and non-economic. Economic damages are based on actual financial loss. This category of damages can actually be added up to a specific dollar amount. On the other hand, non-economic damages are not based on any specific financial loss, but still must be quantified in some way.

Types of Damages available in personal injury cases

The actual damages that can be recovered differs from one case to the next, depending on the circumstances and the laws of each state. However, there are types of damages that are typically available in a personal injury case, which include: compensatory damages, lost wages, pain and suffering, emotional distress, wrongful death, loss of consortium or companionship and punitive damages.



- Medical expenses – compensation for medical expenses incurred for treatment of the plaintiff's injuries. Damages should also include costs for any future treatment or recovery that may be needed.

- Loss of income – reimbursement for lost income, including lost wages. May include missed days at work and/or lost vacation or sick days. If the plaintiff is unable to continue working, then the damages must be calculated over the course of his or her lifetime.
- Future earning capacity – if the plaintiff’s ability earn a living has been limited in some way, due to injuries caused by the defendant, he or she is entitled to recover for the difference in income.

- Pain and suffering – compensation for pain and discomfort, associated with physical injuries is also allowed. Proof of pain medication and therapy to relieve pain are important. Plaintiffs can also be



compensated for the effects pain and suffering have on their ability to lead a normal life.

- Emotional distress damages – in some cases, an injury can result in not only physical injury, but also emotional injury. Emotional distress is generally proven by psychiatric records.
- Wrongful death – if the victim in the case dies as a result of the injuries sustained, then a special cause of action for wrongful death may be

appropriate. These claims are brought by family members of the deceased victim.

- Loss of consortium or loss of companionship – this type of injury claim is also brought by family members, for their own losses. The purpose is to compensate family members for the loss of the relationship they had with the victim, prior to the injury. Loss of consortium is specific to spouses, and relates to the loss of an intimate physical relationship.
- Punitive damages – this type of damages is not available in personal injury cases in all states. The purpose of these damages is to punish the defendant, as opposed to reimbursing the plaintiff for some loss.

Shared Fault in Missouri



Many states have comparative fault laws that apply when the injured person is found to have contributed in some way to the underlying accident. Missouri applies "pure" comparative fault rule, which reduces the amount of damages the plaintiff can receive. The damages are reduced based on the percentage of fault.

Here is an example. You were rear-ended by another car while sitting at a red light. However, at the time of the accident, your tail lights were not working, so the other driver didn't realize in time that you were stopped. If your total damage amount is \$10,000, and the jury determines you were 20% at fault for the accident. That means the defendant is only liable for 80% of your damages. Under Missouri's pure comparative fault rule, you will only be allowed to collect \$8,000.

Missouri's does not cap personal injury damages

Caps on damages means the amount of damages you can recover is limited. These caps or limitations differ from one state to another. Typically, caps are applied to non-economic pain and suffering damages. Some states also limit damages that can be recovered in medical malpractice case. However, Missouri currently has no caps in place on damages in personal injury cases.

If you have questions regarding damages, or any other personal injury concerns, call the Cottrell Law Office at (800) 364-8305.

About the Author



Wesley A. Cottrell

Wesley A. Cottrell has been successfully practicing law for over 29 years. Born in Springdale, Arkansas and raised in Baxter Springs, Kansas, Wes is licensed to practice law in Arkansas, Kansas, Missouri, and Oklahoma.

Wes earned his B.A. from Pittsburg State University in 1981 and his J.D. from the Washburn University School of Law in Topeka, Kansas in 1985. He was admitted to practice law in Kansas in 1986, in Missouri in 1987, in Arkansas in 1989, and Oklahoma in 1993.

He is licensed to practice law in the United States District Court for the District of Kansas, eastern Arkansas, western Arkansas, and western Missouri. He was Deputy Prosecuting Attorney in Crawford County, Kansas from 1987-1989.

Wes lives in Rogers, Arkansas with his wife, Shelly, and their two daughters, Kennedy and Gabby. He is active in his community, and is regularly asked to teach courses to other attorney on personal injury and workers' compensation litigation.

Memberships and Associations:

National Organization of Social Security Representatives
Benton County Bar Association
Arkansas Bar Association
The Missouri Bar
Kansas Bar Association
Oklahoma Bar Association
Arkansas Trial Lawyers Association
American Association of Justice

COTTRELL LAW OFFICE

Rogers Office
117 South 2nd St
Rogers, AR 72756
Phone: (800) 364-8305
Secondary phone: (479) 631-6464

Joplin Office
2001 Empire Ave
Joplin, MO 64804
Phone: (800) 364-8305
Secondary phone: (417) 782-4004