

HOW JURIES CALCULATE MISSOURI PERSONAL INJURY AWARDS

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Wesley A. Cottrell



Quick resolution of personal injury cases is typically a goal. The sooner a case is resolved, the sooner the parties can go on with their lives. However, settlement is not always a reality. Some personal injury cases ultimately go to trial. At that point, the resolution of the case is left in the hands of the jury.

If a jury decides that you should recover in the case, it is up to them to determine how much your damage award should be. Being familiar with how juries calculate personal injury awards can take some of the mystery out of the litigation process.

The Role of the Jury at Trial

The jury has a very important job during a trial. The jury listens to all of the evidence presented by the lawyers in the case, then it must decide, based only on that evidence and the law as explained by the court, who is at fault and what type of award, if any, should be given to the victim. Many of us who have never had the opportunity to serve as a juror, are curious about what happens in the jury deliberation room. While every case is different, the juror's process is typically the same.



Reviewing the Evidence

There are rules regarding how the jurors must deliberate, once they are in the jury room. Most jurors pay attention to the evidence during trial, and many courts allow jurors to take notes. But, when they begin their deliberations, they are not allowed to have a transcript of the testimony. Instead, they must rely only on their memories and notes. Juries are also allowed to have all of the exhibits presented at trial.



Determining the Facts

The jury will discuss the evidence until they become satisfied that they understand exactly how the accident occurred. This could take an hour or, in more complicated cases, it could take days. Once the jury is comfortable that they understand the facts, they will begin to consider the law, and how the law applies to the facts.

Applying the Law to the Facts



The first step in applying the law to the facts is instructing the jury on the law that applies to that particular case. It is the judge's duty to provide the jury instructions, which are often rather lengthy. The jury instructions are typically given at the end of

the trial, after all of the evidence has been presented by the parties. These instructions will address every aspect of the jury's deliberations, giving them all of the law they need to decide the case.

Creating an Emotional Appeal to a Jury

Despite the instructions that juries receive, it is only human nature for emotion to play a role in each juror's opinion about a case. Jurors will generally follow their hearts, at

least to a certain degree, when considering the evidence in a case. Therefore, it is only realistic to assume that, if a plaintiff can make a strong emotional appeal



to the jury, they have a better chance of winning.

Some of common types of evidence that create an emotional appeal to the jury include:

- serious, permanent injuries
- injury to a child
- pictures of the injury
- evidence of dishonesty or a cover-up

Considering Pain and Suffering



It is rather easy to determine compensation for medical expenses and lost earnings, because these types of damages are easily calculated. But, how do you calculate pain and suffering? This is a difficult task, made that much more challenging by the vagueness of most jury instructions on this element of damages.

Most judges say very little about pain and suffering, other than the jurors must use their own good sense, background, and experience in determining what would be a fair and reasonable figure to compensate the plaintiff for pain and suffering.

In sum. . .

Jurors are more likely to think about how they would feel if someone negligently did to them what the defendant did to the plaintiff. In other words, jurors place themselves in the plaintiff's position.

They will consider how much money they would want if they had the same injuries as the plaintiff. Then the jury will arrive at a consensus, and that will be their verdict. Jury verdicts can rarely be predicted. Leaving the final decision on compensation in the hands of a jury is always a risk, one that most both parties in a personal injury case often prefer to resolve through settlement, if at all possible.

If you have questions regarding jury trials, or any other personal injury issues, 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

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