



CHAPTER SIX

# Legal





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*Not every injury is associated with an insurance claim or settlement, but understanding your legal and insurance options is extremely valuable.*

*- Peter Athanasopoulos, SCIO Director of Public Policy*



In this chapter, you will learn:

- When legal help may be needed
- What to expect from your legal team
- What benefits and compensation may be available

## **DO I NEED A LAWYER?**

A spinal cord injury can have lifelong physical, emotional, and financial impacts. While not every injury leads to a lawsuit, many are caused by someone else's carelessness or negligence. Knowing when to reach out to a lawyer can help protect your legal rights after a spinal cord injury and ensure you get the financial support you need.

Reaching out to a personal injury lawyer early on can help preserve crucial evidence, explain your legal options, and take the stress out of dealing with insurance companies. A lawyer will investigate how your injury happened, determine who is responsible, and gather medical and expert evidence to support your case. They will also review all available insurance policies, including car, homeowners', or commercial policies, to ensure you understand your potential for financial recovery.

### **Common causes of spinal cord injuries that may lead to a legal claim include:**

- Car accidents, cycling accidents, motorcycle accidents, pedestrian accidents, or boating accidents
- ATV, motorbike, or UTV collisions
- Slip or trip and fall incidents on commercial or private property (Occupier's Liability)
- Recreational or sporting injuries
- Workplace accidents
- Tavern and social hosts

## You may need legal assistance if:

- The injury happened because of someone else's negligence
- You are facing significant medical bills, lost income, or long-term care costs
- Insurance companies are disputing or undervaluing your claim

Even if the fault is unclear, consulting with a spinal cord injury lawyer in Ontario can help clarify your rights and the best steps to take. Getting early advice ensures that your interests are protected, allowing you to focus on your recovery.

## Professional Points: Lawyer

### HOW DO I CHOOSE A LAWYER?

Finding the right lawyer for you or your loved one after a serious injury is one of the most important decisions you will make. It's a decision made at a time of uncertainty and stress, when you're being asked to make choices you've likely never faced before. Choosing a lawyer who truly understands your personal and legal challenges can make all the difference in securing the support, compensation, and peace of mind you deserve.

When choosing a lawyer, think about their specialization, experience, resources, reputation, and track record. Equally important is how comfortable you feel talking with them, as trust and communication are key to a strong lawyer-client relationship.

Here are some key tips to help you choose the right personal injury lawyer:

- **Seek trusted referrals.**

If you know any lawyer, even if they don't specialize in personal injury, ask them who they would recommend. A referral from within the legal community can connect you with lawyers who are well-known for helping injured clients.

- **Request a free initial consultation.**

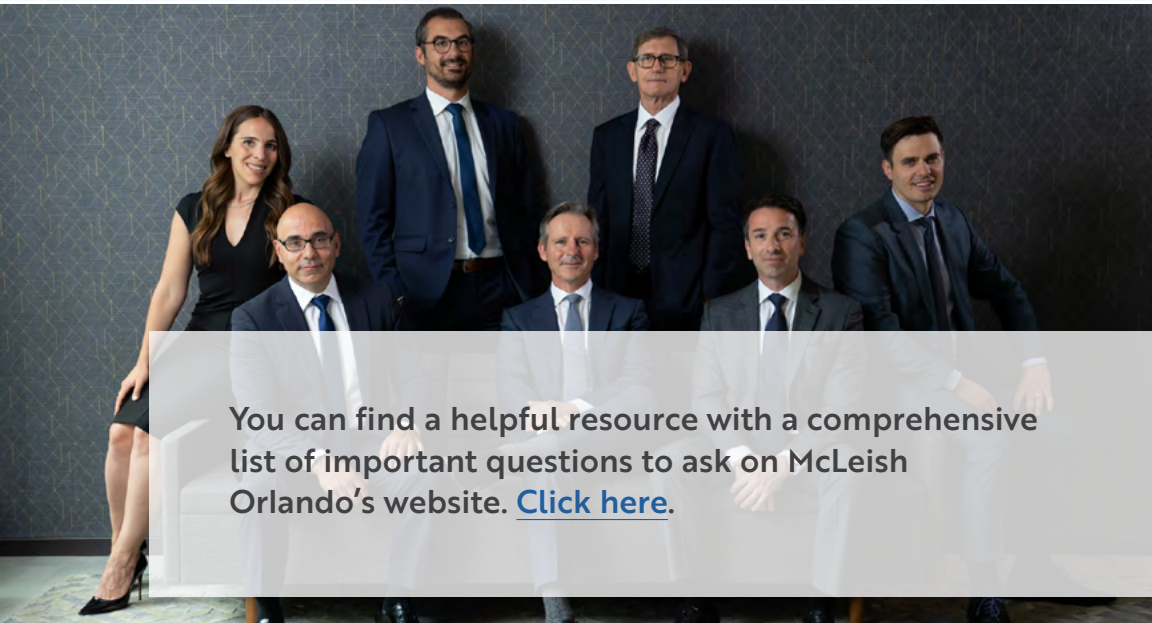
Many reputable personal injury lawyers offer a no obligation consultation. This meeting gives you the chance to learn about the lawyer's experience, approach, and past results.

- **Ask the right questions.**

Don't hesitate to ask about the lawyer's experience, who will handle your case, and how communication will work. You want to ensure they are focused on achieving the best outcome for you.

Here are some examples of questions you can ask to better understand the lawyer's credentials and experience in handling spinal cord injuries cases:

1. Do all members of your firm focus solely on representing individuals who have suffered serious injuries?
2. Do you limit the number of clients you take on to give each case the attention it deserves?
3. Does your firm have the financial strength to cover the expenses of my case upfront, without requiring a retainer?
4. Do you use advanced document management and tracking systems to ensure efficiency and accuracy?



You can find a helpful resource with a comprehensive list of important questions to ask on McLeish Orlando's website. [Click here.](#)

## Choosing the right lawyer can take time and careful consideration, but it's worth it.

The right legal team will fight for your compensation while guiding you through the process with respect, transparency, and compassion. This gives you the confidence you need to focus on healing while your lawyer preserves your legal rights after a spinal cord injury.

For a more detailed overview of the personal injury process in Ontario, you can explore the [McLeish Orlando Personal Injury Guide](#). McLeish Orlando has been representing people with spinal cord injuries for over 25-years. They have prepared this guide to help injured people and their families understand:

- The process of achieving fair compensation through their insurance (accident benefits) and a lawsuit.
- How to assemble the best team of rehabilitation professionals to maximize medical recovery.
- How to choose the best personal injury lawyer for you and those you care about.

The guide will help explain your legal options, timelines for starting a claim in Ontario, and what the legal process entails. The guide was prepared to help you in making informed decisions following your injury.

## **WHAT SHOULD I EXPECT FROM MY LAWYER?**

Spinal cord injury cases are often complex and require specialized attention. Working with an experienced personal injury law firm ensures you have a dedicated team managing every part of your case, from gathering medical records to negotiating with insurers.

### **A Dedicated Legal Team Focused on Your Case**

Your legal team may include lawyers, law clerks, legal assistants, a dedicated accident benefit coordinator and team, and articling students. Each person has a specific role: some will track deadlines and documents, others will handle communication with insurers, and your lawyer will focus on strategy, negotiations, and legal representation. This team approach makes sure no detail is overlooked, and every aspect of your claim is carefully managed.

### **Clear, Regular Communication**

Expect regular updates, and easy-to-understand explanations of legal terms. You will always know where your case stands and what your options are.

### **Thorough Case Evaluation and Investigation**

Your team will review accident reports, medical records, and other key documents. Experts in medicine, rehabilitation, and work and employment planning may be brought in to assist. The use of advanced systems will ensure all evidence is tracked and deadlines are met.

### **Strategic Planning and Advocacy**

Your lawyer will develop a customized plan for your case, whether it's negotiating a settlement or pursuing litigation. They will work to maximize your recovery by evaluating all responsible parties and insurance coverage.

### **Support and Guidance**

Your lawyer will help you navigate insurance claims, benefits, and care planning, ensuring that the financial and practical impacts of your injury are handled so you can focus on recovery.

## **HOW AND WHEN WILL I PAY FOR THE LAWYER?**

Spinal cord injury cases can involve significant expenses, but clients typically do not pay upfront legal fees. Most personal injury lawyers work on a contingency fee basis, following guidelines from the Law Society of Ontario. This means you pay only if your case is successful, with lawyers receiving a percentage of the settlement or court award. This allows clients to access experienced legal representation without significant upfront costs.

### **Expenses and Additional Costs**

While there may be costs for medical records, expert reports, or court filings, many law firms cover these expenses upfront and deduct them only if your case is successful. Your lawyer will clearly explain which costs are covered and how they are managed.

### **Timing of Payment**

You don't need to pay anything at the start of the case. Legal fees are collected only after a settlement or court judgment is received. This structure aligns your lawyer's interests with achieving the best outcome for you.

### **Transparency and Written Agreements**

You'll receive a detailed retainer agreement that explains fees, expenses, and payment terms. Your lawyer will make sure you understand all costs and answer any questions you have.

### **Special Considerations for Spinal Cord Injury Cases**

These cases often take longer because they involve complex medical and rehabilitation issues. The "no win, no fee" structure helps ensure that you can pursue your claim without financial stress. Some spinal cord injury lawyers in Ontario may also assist in arranging interim financial support while your case is ongoing.

## WHAT CAN I EXPECT TO OBTAIN?

Every spinal cord injury case is different. The compensation you may be entitled to depends on factors like liability, your age, occupation, the severity of your injury, and available benefits. Your lawyer will assess your case, gather the necessary medical evidence, and provide you with a clear idea of the compensation you might expect and your legal rights after a spinal cord injury.

### Categories of Compensation

- Pain and Suffering
- Loss of Income and Earning Capacity
- Loss of Household and Home Maintenance Capacity
- Future Cost of Care
- Family Law Act Claims
- Out-of-Pocket Expenses
- Punitive Damages

Your lawyer will guide you through the process and help you understand the types of damages that apply to your situation. Following the resolution of your case, your lawyer may also assist with a financial management plan to help you use your compensation in a way that supports both your immediate needs and long-term care. Your lawyer may work with financial professionals to help you budget, protect your settlement funds, and ensure financial stability throughout your recovery.

## **WHAT WILL I NEED TO DO DURING THE LEGAL PROCESS?**

Your active participation is key to building the strongest case. By working closely with your lawyer, you help ensure your case moves forward effectively.

### **Provide Detailed Information About Your Injury**

You will need to explain how your injury occurred and share relevant medical records and personal information. Honesty and thoroughness are crucial for your lawyer to build a strong case.

### **Attend Assessments and Appointments**

You may be asked to participate in medical, vocational, or rehabilitation assessments. These evaluations are vital for determining the extent of your injury and the potential compensation you may be entitled to receive.

### **Stay Informed and Communicate Regularly**

Keep in touch with your lawyer and respond quickly to requests for information. Stay updated on settlement talks and litigation progress, and ask questions whenever needed.

### **Follow Guidance from Your Lawyer and Legal Team**

Your legal team will guide you through each step, including document submissions, negotiations, and court appearances. Following their instructions carefully will prevent costly mistakes. Your lawyer will manage the complex aspects of the case while you focus on recovery.

**STAYING ACTIVELY INVOLVED AND FOLLOWING YOUR LAWYER'S ADVICE WILL HELP STRENGTHEN YOUR CLAIM AND KEEP THE PROCESS ON TRACK.**

### WHAT KIND OF BENEFITS ARE AVAILABLE WHILE THE LAWSUIT IS PENDING?

Spinal cord injury claims can take months or years to resolve. During this time, you may be eligible for various benefits to cover living and care expenses. The following benefits can provide crucial financial assistance while your case is ongoing.

#### Auto Insurance No-Fault Accident Benefits

You may be able to access no-fault benefits through your auto insurance, even if the other party is at fault. These benefits can help cover medical treatment, rehab services, and lost income.

For a deeper explanation of accident benefits and compensation following a motor vehicle collision, visit the [McLeish Orlando Personal Injury Guide](#), which outlines available benefits and how they apply in serious injury cases.

#### Canada Pension Plan (CPP) Disability Benefits

CPP Disability provides financial support to individuals with a severe and prolonged disability that prevents them from working. These benefits can supplement other forms of financial support while your legal claim is ongoing.

#### Ontario Disability Support Program (ODSP) Payments

ODSP offers income and medical support to eligible individuals, helping manage day-to-day living costs and ensure basic needs are met during litigation. To qualify for ODSP, you must:

- Be at least 18 years of age
- Be an Ontario resident
- Have assets no greater than the limits set out in the program
- Be in financial need
- Meet the program's definition of a person with a disability or be a member of a prescribed class

## ACCIDENT BENEFITS AVAILABLE TO A PERSON WHO SUFFERS A CATASTROPHIC IMPAIRMENT

BENEFIT	MONETARY LIMIT	TIME LIMIT
<b>INCOME REPLACEMENT BENEFIT</b>	70% of pre-accident gross weekly income up to a maximum of \$400.00 per week, less any post-accident income.*After 104 weeks: Disability test changes however IRB amount remains the same. If IRB amount is less than \$185.00 per week, it will increase to **\$185.00 per week** at the 104 week mark.The benefit is adjusted at age 65.	This benefit commences after the first week of disability.104 weeks unless the person suffers a complete inability to engage in any employment for which he or she is reasonably suited by education, training or experience.
<b>NON-EARNER BENEFIT</b>	\$185 per week, payable after first 4 weeks.	104 weeks. Insurer is not required to pay before the insured person is 18 years old.
<b>CAREGIVER BENEFITS MUST BE "INCURRED"</b>	\$250* per week for the first person in need of care, and \$50* per week for each additional person.	104 weeks, unless the injured person suffers a complete inability to carry on a normal life.
<b>MEDICAL &amp; REHABILITATION BENEFITS</b>	\$1,000,000*, inclusive of medical, rehabilitation, and attendant care. Amount includes costs of assessments for medical, rehabilitation, and where applicable, attendant care benefits.	Lifetime.
<b>ATTENDANT CARE BENEFITS MUST BE "INCURRED"</b>	Up to \$6,000* per month.	Lifetime.
<b>CASE MANAGEMENT</b>	Payable out of \$1,000,000* med/ rehab benefits	Lifetime.
<b>EXPENSES OF VISITORS MUST BE "INCURRED"</b>	All reasonable & necessary expenses incurred.	Lifetime.
<b>HOUSEKEEPING &amp; HOME MAINTENANCE</b>	**\$100 per week.**	Lifetime.

\*Subject to optional buy-up coverage

## Employer-Sponsored Disability Benefits

Short-term and long-term disability benefits offered by your employer can help replace lost income while you're unable to work. These benefits are often used alongside other forms of support to maintain financial stability during your claim.

## Navigating the WSIB After Suffering a Spinal Cord Injury

If a spinal cord injury occurs at work, the [Workplace Safety and Insurance Board \(WSIB\)](#) may provide income replacement, medical treatment, rehabilitation, and funding for home or vehicle modifications. To access these benefits, the injury must be reported promptly to both the employer and the WSIB. Once a claim is approved, case managers and health professionals may be assigned to coordinate treatment and recovery planning.

Generally, WSIB benefits replace the ability to sue an employer directly, but separate claims may be available if another party contributed to the injury. A lawyer experienced in spinal cord injuries and workplace claims can help determine all possible sources of compensation.



### CHOOSING A CASE MANAGER FOR YOUR CARE

If you have access to benefits, selecting a qualified case manager is essential in managing your spinal cord injury. A case manager helps coordinate rehabilitation services, equipment purchases, and home modifications, ensuring your recovery and long-term health needs are adequately supported.

#### Your Right to Choose

You have the right to select the person who will manage your care, oversee treatment, and direct your rehabilitation. A skilled lawyer can help you make an informed choice and ensure your case manager meets your individual needs and preferences.

#### Role of a Case Manager

A case manager acts as a “team captain,” coordinating with you, your lawyer, insurer, and healthcare professionals. They assess your care requirements and develop a tailored treatment plan, organizing rehabilitation services, medical equipment, and any necessary home modifications.

#### Benefits of Early Involvement

Your lawyer should connect you with a case manager promptly after your injury. Early involvement ensures that your rehabilitation needs are addressed quickly and that accident benefits are used efficiently. A case manager also helps streamline communication between all parties, reducing delays and supporting an effective recovery process.

Choosing a qualified case manager is critical in managing a spinal cord injury claim. With guidance from your lawyer, a case manager helps coordinate care, maximize the use of benefits, and develops a treatment plan designed to support your recovery and long-term health.

## HOW AND WHEN DOES A SETTLEMENT GET PAID?

If you or a loved one has suffered a spinal cord injury, understanding how settlements work is an important part of the legal process. Most personal injury cases are resolved before trial, so it helps to know what to expect when your case settles and how compensation is paid.

### Timing and Payment of a Settlement

Settlements are usually paid once all documents are signed and court releases are finalized. Your lawyer will ensure that the funds are appropriately distributed, covering legal fees and disbursements, and direct the remaining amount to you or into a structured settlement plan. Structured settlements can provide long-term financial stability through scheduled payments, while lump-sum payments offer immediate access to funds.

### Why Settlements Are Often Preferred

Settlements allow for quicker compensation, avoiding the uncertainty and emotional stress of a trial. Your lawyer will ensure you fully understand the settlement offer before accepting.

### How Injury Severity Affects Settlement Value

The severity and lasting effects of your spinal cord injury greatly influence the settlement amount, particularly when they affect your ability to work, participate in activities, or maintain independence.

### Calculating Your Compensation

Compensation may include damages for both tangible losses (like medical expenses) and non-tangible losses (such as pain and suffering). Your lawyer will work with experts to ensure your long-term needs, like home modifications and care, are considered.

Settlements provide a way to secure fair and timely compensation while maintaining control over your outcome. With the help of an experienced spinal cord injury lawyer in Ontario, you can understand how your compensation is calculated, how and when it will be paid, and ensure that your long-term financial care needs are fully protected.

## WHAT IS A STRUCTURED SETTLEMENT?

A structured settlement is a financial arrangement that converts part or all of your compensation into regular, tax-free income payments, providing long-term financial security for ongoing care. This option is often chosen in spinal cord injury cases due to its predictability.

### How Structured Settlements Work

Unlike a lump-sum payment, structured settlements provide recurring payments, much like receiving a steady paycheck. These payments are tax-free and can be customized to cover your anticipated expenses, such as medical care, rehabilitation, housing modifications, or daily living costs without worrying about depleting your resources too quickly.

### Why Structured Settlements are Common in Spinal Cord Injury Cases

Spinal cord injuries often require lifelong care and substantial ongoing expenses. A structured settlement ensures financial stability by providing predictable payments for your medical and personal care.

**STRUCTURED SETTLEMENTS HELP YOU SECURE YOUR FINANCIAL FUTURE, AND WITH YOUR LAWYER'S GUIDANCE, YOU CAN DECIDE IF THIS OPTION WORKS BEST FOR YOU.**

## WHAT IF I AM UNDER 18?

When a person under the age of 18 suffers a spinal cord injury, the legal process works differently. A parent or guardian must handle the claim because minors cannot start or manage a lawsuit independently. This ensures the young person's legal rights after a spinal cord injury are fully protected throughout the legal process.

### The Role of a Litigation Guardian

In personal injury cases involving minors, the court requires the appointment of a litigation guardian. This person, usually a parent or another trusted adult, acts in the child's best interests and makes important legal decisions. The litigation guardian works closely with the personal injury lawyer to ensure the case is managed properly and that the child's needs and future are fully represented.

### Court Approval of Settlements

Any settlement for a minor requires court approval to ensure it serves their best interests. The court may place settlement funds in trust until the child reaches adulthood.

### Why This Process Matters

Spinal cord injuries in children and teenagers often have lifelong implications that evolve as they grow. Having a litigation guardian and lawyer involved ensures that the young person's legal, financial, and medical needs are fully considered, not just for today, but for the years ahead.

## **CAN FAMILY MEMBERS SUE FAMILY MEMBERS?**

While it may feel uncomfortable, it may be necessary to pursue a legal claim against a family member to ensure the injured person receives the financial support they need for medical care, rehabilitation, and long-term recovery.

### **When Claims Involve Family Members**

Claims can be made against a relative if the injury happens on family property or in a family vehicle. These cases involve insurance claims, not personal finances. The goal is to access insurance coverage for the injured person's recovery.

### **The Role of Insurance Coverage**

It is important to understand that these cases generally seek compensation from an insurance company, not from a family member's personal finances. For example, if the injury results from a motor vehicle accident, the claim is paid by the driver's auto insurance policy. Similarly, if a fall happens on family property, the claim is usually covered under a homeowner's or property insurance policy.

### **Why These Claims Matter**

Spinal cord injuries often involve substantial and lifelong costs, including rehabilitation, medical care, and home modifications. Accessing insurance funds through a claim, even when the policyholder is a family member, can make a significant difference in securing the resources needed for recovery and independence.

While suing a family member may sound personal, in practice, these are insurance claims designed to access all available coverage. With experienced legal guidance, they can be handled sensitively and professionally to preserve family relationships while protecting the injured person's financial future.

Recovering from a spinal cord injury involves many moving parts. This chapter gives you the foundation to understand your legal rights, the support available to you, and how your care and legal team can work together throughout your recovery.

## ADDITIONAL RESOURCES:

Navigating the legal process following a spinal cord injury can feel overwhelming. Here are some helpful resources that you can bookmark and refer back to over the course of your case to help you:

1. [Navigating Spinal Cord Injuries](#)

This resource helps provides additional insight into recovery, rehabilitation, and legal considerations following a spinal cord injury.

2. [How Long Does It Take to Settle a Personal Injury Claim?](#)

This resource will help you to learn more about settlement timelines and what happens once a case resolves.

3. [Top Five Things You Need to Know About Personal Injury Settlement Payments in Ontario.](#)

4. [Legal Terminology 101](#)

This resource will help you if you encounter unfamiliar legal language during the process, offers a plain-language glossary of common personal injury terms to help you better understand your case.

5. [Neuralink and Spinal Cord Injuries: A Breakthrough for Ontario Patients](#)

Significant medial breakthrough for spinal cord injured individuals and how and why it relates to your lawsuit.

6. [Returning to Work following a Spinal Cord Injury](#)

This resource will help you understand how your lawyer and lawsuit can help you return to work following your injury.

7. [Personal Injury Guide](#)

A comprehensive guide to understanding your personal injury lawsuit in Ontario

8. [10 Tips to Help You Hire the Best Personal Injury Lawyer for Significant Cases](#)

Tips and questions to help guide you in your search for the best legal representation for you and your family.