

Your guide to

# MOTOR VEHICLE ACCIDENTS

## Who We Are

Boland Romaine Personal Injury Lawyers is one of Ontario's most respected injury firms with over 40 years of trial experience. Voted as one of the top 10 personal injury firms by Canadian Lawyer Magazine, Boland Romaine's lawyers have represented the province's most vulnerable injured victims in court and won.



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# When Should You Contact a Lawyer After a Car Accident?

It's crucial not to delay seeking legal advice after a car accident injury. **The sooner you consult a personal injury lawyer, the better.**

If your case is valid and leads to compensation, legal fees and expenses will be deducted from your settlement—meaning you pay nothing upfront. If we are unable to secure compensation for you, you owe nothing. Plus, our consultations are always free, whether or not we take your case.

If you have sustained an injury from a car accident, there are two ways to claim compensation:

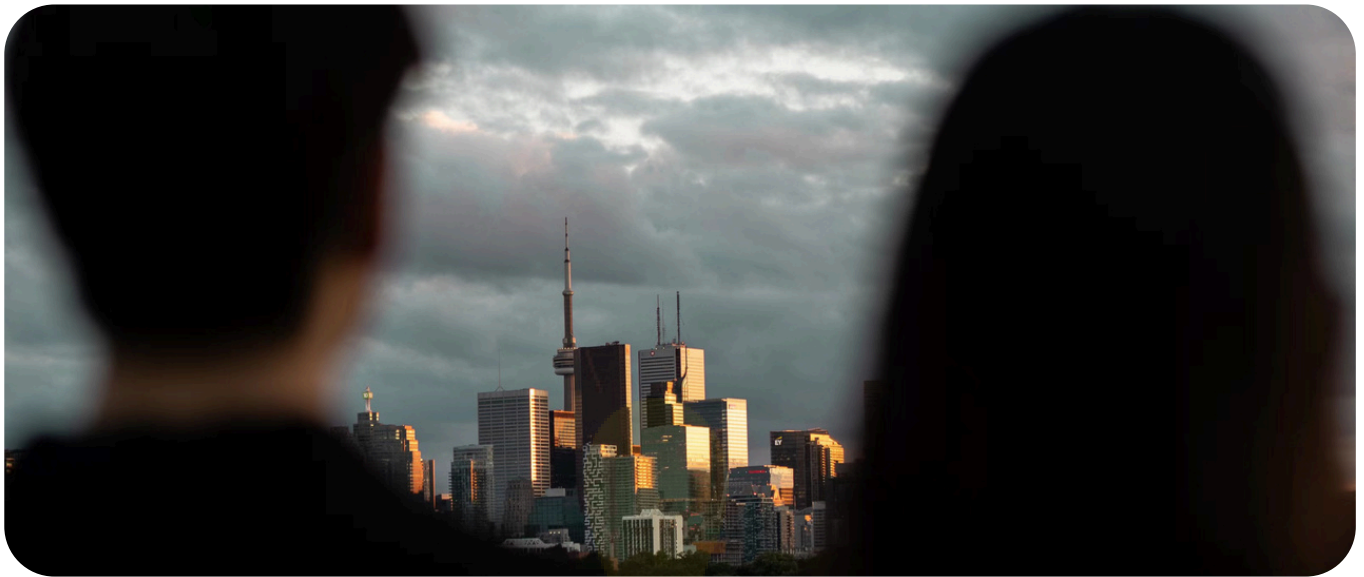
1. You may be entitled to receive Accident Benefits, also called no-fault benefits, from your insurance company, regardless of who is at fault for the car accident.
2. You may be entitled to receive an award of damages if another person is at fault or if you are only partly at fault for the car accident. This is called a Tort Claim and is commenced by way of a formal lawsuit.

## No-fault accident benefits claim

When involved in a motor vehicle collision in Ontario, you can claim benefits from your own insurance company, regardless of who was at fault. This is usually the first course of action following a car accident. Depending on the specific policy in question, the benefits you can claim can include:

- Medical and Rehabilitation Benefits
- Attendant Care Benefits
- Income Replacement Benefits
- Non-Earner Benefits
- Caregiver Benefits
- Housekeeping Benefits
- Death and Funeral Benefits
- Other Benefits

You must notify your insurance company within seven days, or as soon as reasonably possible, that you wish to apply for no-fault accident benefits. You must file a completed Application Form with your insurance company within 30 days after receiving it.



## Understanding Tort Claims in Ontario

If you are a driver, passenger, cyclist, or pedestrian injured in a car accident due to someone else's negligence, you may have the right to pursue a tort claim. This legal action allows you to seek compensation for damages caused by another party's negligence. In Ontario, a lawsuit against the at-fault party must be filed through a Statement of Claim within two years of the accident.

### What Can You Sue For?

An injured party may seek compensation for various damages, including:

- Pain, suffering, and loss of enjoyment of life
- Loss of income
- Health care expenses
- Family Law Act damages (compensation for certain family members)
- Housekeeping and home maintenance costs
- Other quantifiable financial losses

### What Is the Threshold for a Tort Claim?

To proceed with a tort claim, your injury must meet the legal "threshold" established under the Insurance Act. This means your injury must result in either:

- A permanent serious impairment of an important physical, mental, or psychological function
- A permanent serious disfigurement

A personal injury lawyer can assess whether your case meets this threshold and guide you through the process.

### What If My Injury Meets the Threshold?

If your injury qualifies, you may be entitled to compensation for pain and suffering, loss of income, medical expenses, Family Law Act damages, and other losses. Our legal team can help you understand your rights and potential compensation.

### What If the At-Fault Party Is Uninsured?

Even if the responsible party is uninsured or unidentified, you may still have options for compensation. A personal injury lawyer can help determine if you qualify for a Tort or Accident Benefits claim.

# What Evidence is Required to Build A Case?

**Medical Records:** A detailed record of your medical treatment is crucial in proving that your injuries resulted from the accident. Be sure to include all medical bills, diagnostic test results, and any reports from doctors or healthcare providers. These documents serve as essential proof when filing a claim.

**Witness Statements:** If anyone witnessed the accident or its aftermath, their sworn statement can strengthen your case. Their observations can provide valuable evidence in establishing negligence on the part of another driver.

**Accident Scene Photos:** Photographs of the crash site and vehicle damage offer visual proof to support your claim. If possible, take pictures of skid marks, road conditions, and any other indicators that may help reconstruct how the accident occurred.

**Damage Assessment Reports:** A professional mechanic's evaluation of the vehicle damage is often necessary to determine the cost of repairs and the compensation owed. These reports should be included with other claim documents.

**Police Reports:** Police reports contain an officer's official account of the accident, including vehicle positions, damage assessments, and witness or driver statements. This report can play a key role in establishing fault.

# Steps To Take After A Car Accident

# 1

## **Check for Injuries**

The most critical step in the immediate aftermath of an accident is to ensure that everyone involved is all right. It is important to call the appropriate authorities to obtain police, fire and/or medical assistance immediately. Even if your injuries appear minor, it is important to seek medical treatment as soon as possible, as some injuries, like concussions or brain injuries, are not always immediately apparent.

# 2

## **Move the Vehicles to a Safe Location**

If possible (and safe to do so), it is helpful to move the vehicles involved in the accident to the side of the road and turn on your hazard lights to alert other drivers to proceed with caution through the area. Moving the affected vehicles can avoid blocking traffic and reduce the risk of further collisions and injuries.

# 3

## **Remain at the Scene**

It is crucial to remain at the scene of the accident until the matter is resolved. In fact, failing to stay at the scene of the accident can result in criminal charges, including the possibility of a fine or imprisonment.

# 4

## **Gather Information**

If possible, at the scene of the accident, be sure to gather key information that may be required at a later time. At a minimum, it is important to obtain details regarding:

- The location of the accident;
- The road and weather conditions at the time of the accident;
- The licence plate number, year, make, model, and colour of all vehicles involved;
- Driver's license and contact information for all parties involved;
- Photographs of the collision scene and injuries; and collect witness contact information (if applicable).

# 5

## **Call the Police or Report the Accident**

In Ontario, you are required to inform the police of an accident if anyone is injured or more than \$2,000 in property damage has occurred under the Highway Traffic Act. If you are unable to make the report, but there was an occupant in your vehicle, they are expected to inform the police on your behalf. When the police arrive, individuals must cooperate fully and provide them with details regarding the accident. The police will document the scene and circumstances surrounding the accident, and this evidence is often used in subsequent personal injury claims.

If the police do not attend the scene of the accident, it is still important to exchange insurance information and contact details with the other party or parties involved and report the accident to a Collision Reporting Centre in Ontario within 24 hours. A collision report form can be completed, and photographs of your vehicle will be obtained.

## **Contact a Personal Injury Lawyer**

# 6

In our 40 years devoted to personal injury law, we have come to know the most effective rehabilitation teams in York Region and GTA, and will introduce you to the case managers, rehabilitation support workers, cognitive and behavioural therapists, physiotherapists, and occupational therapists, that will become instrumental to you achieving your recovery goals. Contact us today to arrange for a free consultation to hear more about how Boland Romaine can help.

## **Seek Treatment for Your Injuries**

# 7

To reiterate, even if you do not believe you initially sustained any injuries in the motor vehicle accident, it is often a best practice to get checked out by a healthcare professional to rule out any potential health impacts. If you sustained injuries in the collision, it is crucial to seek medical treatment immediately and comply with your medical professional's recommendations, including when and whether you should return to work and which activities you can participate in. Common injuries resulting from motor vehicle accidents include:

- Whiplash and soft tissue injuries;
- Cuts, bruises and contusions;
- Fractures and broken bones;
- Concussions or traumatic brain injuries;
- Spinal cord injuries and paralysis.



# What are Long Term Disability Benefits

Long term disability benefits provide income replacement for disabled employees who meet the definition of “totally disabled.” Typically, long term disability benefits are paid on a monthly basis up to a maximum amount as outlined in the disability policy.

There are several types of long-term disability benefits available in Ontario. Your employer may provide long term disability benefits through a group plan, or you may have private coverage through your own policies. However, other types of long term disability benefits include:

- Canada Pension Plan Disability;
- Workers Compensation;
- Ontario Disability Support Program; and,
- Disability Tax Credit.

# What Totally Disabled Means for Long Term Disability Insurance

There are 2 definitions used in your long term disability policy to define the period of time you are totally disabled from working. Somebody is “totally disabled” where they cannot work because of a medical condition or injury. Any illness or injury could qualify for long term disability benefits. It is not the illness or injury itself that matters, rather it is the impairments or restrictions caused by your injury or illness that matter. The diagnosis itself does not decide whether a worker is qualified for long term disability benefits.

The meaning of “totally disabled” changes over time. When you first apply for long-term disability benefits, the assessment of total disability is based on whether you can perform your own occupation. This means that you are not able to perform the essential duties of your job.

After 2 years of being on long term disability benefits the insurer will assess whether you can perform any occupation. This means you are not able to perform the essential duties of any job that you are reasonably qualified for. Most long term disability policies use the own occupation definition for 2 years, but it may be less or more depending on the policy.

## Who qualifies for long term disability?

If an employee has long term disability insurance coverage at the time they become disabled, they are qualified to receive long term disability benefits. The conditions covered by a policy range from physical injuries to mental health illnesses. Read on to the next page for more.



“Insurers know which lawyers go to trial for their clients and which ones don’t. Shouldn’t you?”



# Who Qualifies for Long Term Disability?

## You are eligible for LTD benefits in Ontario if:

- You are an Ontario resident.
- Have an insurance plan through your employer or a private provider.
- Have worked for your employer for a qualifying period, if identified by your insurance policy.
- Have a long-term injury, illness, or medical condition preventing you from working.

## Pre-existing Conditions

Pre-existing conditions are a common exception to eligibility for long term disability benefits. Pre-existing condition clauses exclude or restrict you from receiving long-term disability benefits if you have a recurrence of symptoms from a previous condition you had prior to starting your job. This is often included in policies in order to protect the company from a high claim payout. Typically, pre-existing conditions become an issue if a disability occurs a short time after coverage begins. The insurer may then investigate to see whether your entitlement to benefits is excluded.

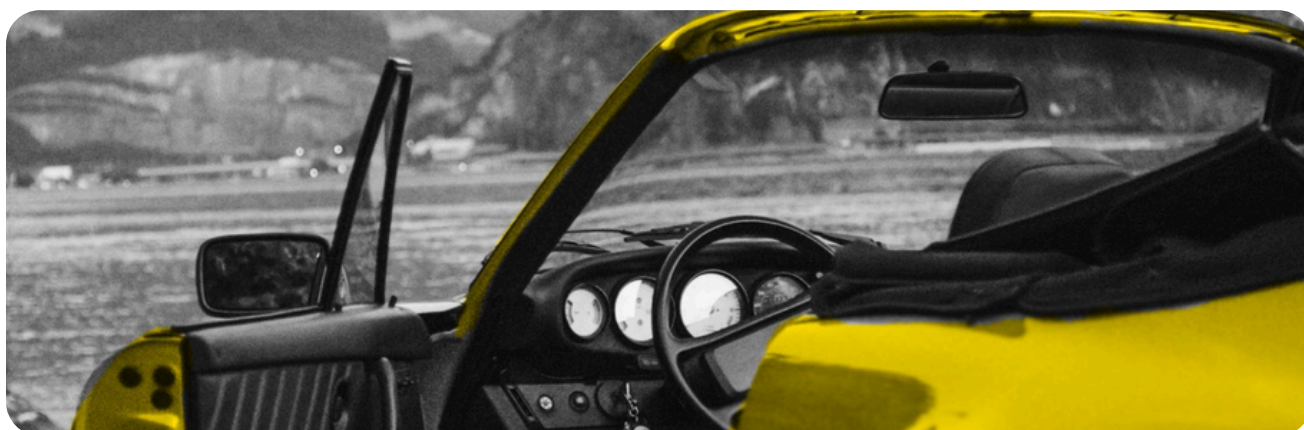
## Exclusions and Limitations

There is often a list of exclusions and limitations within the disability policy. If any of the listed conditions apply to you, you may not be eligible for benefits. For example, some common exclusions are self-inflicted injuries, including alcoholism.

## Elimination Period

The elimination period is the waiting period between the onset of the disability and the time you are first eligible to receive long-term disability benefits. This waiting period is typically covered by short term disability benefits, if available.

Once this elimination period is satisfied, you will be eligible to receive your benefits at the end of the following month. For example, if it states in your policy that there is a 90-day elimination period, this means you are 4 months away from receiving your benefits.



# Common Car Accident Injuries

## **Traumatic Brain Injury (TBI)**

A traumatic brain injury can range from a mild concussion to severe brain damage. TBIs often result from a direct impact on the head or sudden movement that causes the brain to collide with the skull.

## **Bone Fractures**

Broken bones are one of the most frequent injuries in Ontario car accidents. They can affect any part of the body, from fractured fingers to spinal fractures that require extensive medical treatment.

## **Whiplash**

Rear-end and head-on collisions commonly cause whiplash, a painful soft tissue injury affecting the neck and upper back. Symptoms may take hours or days to appear and can lead to long-term discomfort.

## **Spinal Cord Injuries**

The force of a crash can severely damage the spine, resulting in herniated discs, broken vertebrae, or even paralysis. Spinal cord injuries often require ongoing rehabilitation and medical care.

## **Eye Injuries & Retinal Detachment**

Eye injuries can occur when the face collides with the dashboard, steering wheel, or airbags. Flying glass can also cause severe damage, including retinal detachment, which may lead to permanent vision loss.



# How to Apply for Long Term Disability Benefits in Ontario

The first step in applying for long term disability benefits in Ontario is to see if you have coverage under a group medical plan. If you have coverage, then you should immediately speak with your doctor. You should not leave work to apply for disability benefits without first speaking with your doctor and getting their support.

To apply for long term disability benefits, you likely will have to complete a number of application forms. For instance, most insurance policies will have a notice of claim form, as well as a medical report form. You should confirm what you need to provide to the insurer in order to begin your access to benefits.

When completing the forms, take care to fill them out completely and accurately. You do not want to make a mistake and have your disability benefits denied. Your doctor will very likely have to fill out a form as well.

In submitting your application, it can sometimes be helpful to write a covering letter. The letter should be brief and should indicate what documents are attached to your application. You may even use the letter to quickly summarize any special circumstances.

Once you have submitted your application, you may be required to attend an interview with a representative from the insurance company. This person will be the one who decides whether your claim is approved or denied. You should prepare for this call and be ready to answer any questions they may have accurately and confidently. There is a chance that the insurer might use this interview to find a reason to deny your claim for long term disability benefits, so you should be careful when speaking with them.



# How Much Does Long Term Disability Insurance Pay?

On average, long-term disability benefits range from 60% to 80% of your salary. The benefit is typically paid on a monthly basis and often there is a maximum monthly payment which is outlined in the disability policy. You should always review your long term disability benefits policy to see how much you are entitled to receive.

How long can you stay on Long Term Disability?

Depending on the severity of the condition, you may be able to stay on long-term disability benefits until the retirement age of 65 in the event you are disabled from performing your own job or any other occupation even with reasonable retraining. Less severe conditions, however, may range from several months to several years.

## What if your Long Term Disability Claim was denied?

An employee may be denied long-term disability coverage for many reasons, one of which may be that the insurer does not believe they are totally disabled in accordance with the long-term disability policy. Even if the employee has ample documentation to support their claim for benefits including medical records and doctor notes, it may be deemed insufficient.

A worker who has been denied long-term disability benefits has two options:

1. The first option is to **appeal the decision** with the insurer. However, this option is not recommended. You can appeal up to 3 times, and each one must be done within 90 days of the decision. It is important to note that unless your physician can provide significantly different documentation to support your claim, it is not the best choice to appeal the decision, because your appeal is very likely to be dismissed.
1. The second option is to **commence a lawsuit** against the insurance company for wrongful denial of disability benefits. To achieve the best outcome, it is preferable to retain legal representation. This will take the stress off you and allow you to focus on your recovery.

**If your long term disability application is denied**, don't waste time arguing in appeals with the insurer. Instead, you could hire a Long Term Disability Lawyer at Boland Romaine to assist you with going through the Court, which is a higher authority. You should act quickly in consulting us about your options given the insurer's internal 90-day appeal deadline and the Court's limitation deadline of 2 years to bring a claim.



# Save Time: Ask Us What We Can't Do

At Boland Romaine LLP we believe your future is worth fighting for. We are trial lawyers for the injured and we understand how financially and emotionally exhausting it can be to challenge an insurance company.

We have significant experience handling claims involving catastrophic injuries. To secure maximum compensation, it's crucial to hold insurance companies accountable for their responsibilities to injured individuals. This often requires pursuing a hearing to obtain a catastrophic injury determination from an adjudicator. It's essential that your personal injury lawyer has a strong reputation in the insurance industry for being ready to effectively represent you at such hearings, if needed. The lawyers at Boland Romaine are highly experienced in arbitration proceedings and are recognized as industry leaders in advocating for our clients' rights.

# Frequently Asked Questions

## Why Do I Need A Personal Injury lawyer

A personal injury lawyer will coordinate all aspects of your case and your recovery, ensure that your rights are protected, and will work towards obtaining the benefits and compensation to which you may be entitled.

## What are the limits on what I can receive for medical and rehabilitation benefits?

Minor injuries are eligible for \$3,500 in medical and rehabilitation services. (This can be increased to \$65,000 if there is compelling evidence that a pre-existing medical condition will prevent the insured person from achieving maximal recovery with access to only \$3,500).

- Serious injuries (but not catastrophic injuries) are eligible for upto \$65,000 available for up to 5 years or until age 28 for minors in medical and rehabilitation services. (Combined total limit with any attendant care benefits).
- Catastrophic Injuries are eligible for up to \$1,000,000 maximum and are available for life. (Combined total limit with any attendant care benefits).

## Weekly Income Replacement Benefits, What Are They?

Income replacement benefits will not be paid for the first 7 days after a collision. After this period and for as long as you qualify, you may be entitled to receive up to 70% of your gross weekly income, up to \$400 per week. You can receive \$600, \$800, or \$1,000 if optional additional coverage was purchased. If you are entitled to group or private benefits, you are still entitled to receive up to \$400 in addition to the group benefits.

## Why Boland Romaine?

Trial experience settles cases fairly, and trial experience will protect the injured if negotiations break down. A lawyer for the injured needs the fortitude to say "no" to unreasonable offers and the commitment and skill to take the injured person's case to trial and that is a skill all of our lawyers possess.

## This is overwhelming, how do I go about this?

That is where we come in. Dealing with insurance companies, medical appointments, and lifestyle adjustments or interruptions is an unwelcome burden. By engaging with a personal injury lawyer, a significant part of that burden will be managed by our firm on your behalf, allowing you and your family to focus on your recovery.

## What will happen at the Initial Consultation?

we will gather general information about your claim. You will sign a retainer agreement and authorization forms. This enables us to obtain all the documentation we need to evaluate your case, negotiate a settlement and protect your legal rights. We will then discuss our general strategy with you and answer any questions you may have. This consultation is free.

**“Your future will be decided based on evidence. So should the lawyer you choose to represent you.”**

- Darcy Romaine



Our Commitment Is to get you

# Justice

**Tell Us What  
Happend**

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