



TAC Loss of Earnings (LOE) benefits after a motor vehicle accident

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A motor vehicle accident can have a profound impact on your life, both physically and financially. In Victoria, the Transport Accident Commission (TAC) provides vital support to those affected by road accidents. This includes financial assistance like weekly payments for loss of income (LOE benefits), medical expenses and lump sum compensation to help you recover from your injuries and return to your normal life.

Depending on the severity of the accident you suffered, you could be left with significant ongoing impairments that hinder your ability to earn an income. The TAC can provide benefits to support your lost earnings, known as Loss of Earnings (LOE) benefits, as well as your lost earning capacity, known as the Loss of Earnings Capacity (LOEC) benefits. This blog takes a deeper dive into TAC LOE and LOEC benefits after a motor vehicle accident.

What are Loss of Earnings (LOE) benefits after a motor vehicle accident?

If you're unable to work due to injuries sustained in a motor vehicle accident, the TAC may provide you with LOE benefits. These benefits are designed to compensate you for the income you've lost as a result of your injuries.

In order to receive LOE benefits, you must have suffered a loss of earnings as a direct result of your accident injuries. You do not have to be the driver of the vehicle – you may have been a passenger, [pedestrian](#), [cyclist](#) or on a [train or tram](#). You can also receive LOE benefits if you were [at fault during an accident](#).

To be eligible for LOE benefits, you will also need to have been:

1. In full-time or part-time employment as an employed or self-employed person:
 1. at any time during the 8 weeks immediately before the accident; or
 2. during a period, or periods, equal to at least 13 weeks during the 1 year immediately before the accident; or
 3. during a period, or periods, equal to at least 26 weeks during the 2 years immediately before the accident; and
2. At the date of the accident had not retired permanently from all employment; and
3. Suffered a loss of earnings that is the result of, or is materially contributed to, by the transport accident injuries.

LOE benefits are typically paid for up to 18 months after the accident or the date of the injury. The amount of LOE benefits you will have access to will depend on your pre-accident weekly earnings

To continue receiving LOE benefits, you'll need to provide regular medical certificates detailing your capacity to work. These are known as certificates of capacity. Your GP or other treating doctor will need to complete the certificate for you. Your first certificate of capacity will cover the initial 14 days after the injury occurred. Every other certificate of capacity will be for a 28-day period.

If your injury occurred whilst you were working or going between two workplaces, you may also be entitled to WorkCover benefits. You can read more about this type of compensation in our earlier blog, ["Motor vehicle accidents while working – is it WorkCover or TAC?"](#).

It is imperative to seek legal advice where you have been in a motor vehicle accident during the course of your employment, as your entitlement to both TAC and WorkCover benefits can be complex.

[FREE ADVICE FROM A TAC LAWYER: 1300 700 761](#)

What are Loss of Earning Capacity (LOEC) benefits?

If your injuries have significantly impacted your **long-term earning capacity**, you may be eligible for LOEC benefits. These benefits are designed to compensate you for the reduced earning capacity you'll experience in the future.

LOEC benefits differ from LOE benefits: LOEC is a form of compensation for the loss of an asset, which is the loss of your capacity to earn an income in the future, whereas LOE benefits compensate you for past income you were unable to earn as a result of your motor vehicle accident.

The TAC calculate LOEC benefits by looking at the difference between your capacity to earn income before your motor vehicle accident injury and your actual capacity to earn income after your motor vehicle accident injury. These are referred to as your 'pre-accident earning capacity' and 'post-accident earning capacity'.

If you return to full-time employment after your accident, you will not be entitled to LOEC benefits as you have the same earning capacity post-injury as you did pre-accident. However, if your earning capacity has changed, such as going from full-time employment to part-time (as a result of your road accident injury), the TAC will make top-up payments to you.

LOEC benefits are typically paid after 18 months of receiving LOE benefits and if your whole-person impairment rating is greater than 50%, as per the American Medical Association Guides (AMA Guides). A whole-person impairment rating is an assessment to determine how much lump sum compensation for permanent impairment you may be eligible for after your road accident.

Once you become eligible for LOEC benefits, you will have an entitlement to them for three years. You may only receive LOEC benefits after the three years if your impairment level, per the AMA Guides, remains over 50% and you have a reduced capacity for work.

Factors affecting your entitlement to TAC Loss of Earning benefits

Several factors can influence your eligibility for LOE and LOEC benefits, including.

Severity of your injuries

- The extent and nature of your physical injuries, such as broken bones, spinal cord injuries, or traumatic brain injuries, can significantly impact your ability to work. Similarly, chronic pain or psychological trauma resulting from the accident can limit your ability to perform work tasks.
- The TAC will intermittently check with your treating doctors regarding your recovery and whether your recovery would permit a return to work. The TAC may also advise you to attend an Independent Medical Examination (IME) appointment for them to be able to determine your work capacity or whole person impairment. You can read more about what to expect from an IME in our earlier blog, [“Independent Medical Examinations \(IME\) – WorkCover and TAC claims”](#).

Nature of your occupation

- If your job requires physical labour, heavy lifting, or repetitive motions, your injuries may prevent you from returning to your previous role. Jobs that require high levels of concentration, problem-solving, or emotional resilience may be affected by cognitive impairments or psychological distress caused by the accident.
- The TAC will use an occupational therapist and other professionals to determine your capacity to return to your previous employment or potentially your ability to be retrained for new employment.

Age and experience

- Younger individuals may have better opportunities to retrain or find alternative employment compared to older workers. Your specific skills and experience can also influence your ability to adapt to new job roles or industries.
- The TAC will take this into consideration when determining your eligibility to return to work and entitlements to LOEC benefits.

How can I access Loss of Earning benefits?

You will need to lodge a TAC claim in order to access LOE and LOEC benefits. The claims process can be complex, so it's important to understand your rights and entitlements. You can read more on [how to lodge a TAC claim here](#).

Tips to help you navigate a TAC claim for Loss of Earning benefits

Seek medical attention promptly

The sooner you seek medical attention, the quicker you can start your recovery journey. Document your injuries as detailed medical records can strengthen your claim and help you receive appropriate compensation.

Document everything

Keep a comprehensive record of all medical appointments, treatments, medications, and therapy sessions. Similarly, track your expenses and keep a list of all out-of-pocket expenses related to your injury, such as medical bills, transportation costs, and lost wages.

Communicate with the TAC

- Keep the TAC updated on your progress, including any changes in your medical condition or employment status.
- Respond to any requests for information or documentation from the TAC in a timely manner.

Consider legal representation

A lawyer experienced in TAC claims can provide expert advice and guidance throughout the claims process. They can assist you in understanding your rights and options for compensation and what you can expect to receive from TAC for your injuries.

How can Guardian Injury Law help?

It is crucial that you understand your rights and entitlements so that you can make informed decisions. Making an informed decision ensures you get all the compensation you deserve, not just what is offered to you in the first instance.

At Guardian Injury Law, we understand that motor vehicle accidents can have a profound impact on people's lives. That is why we provide clear, plain English advice so that you can know exactly where you stand.

We fight fiercely and fearlessly for you to ensure that you obtain the maximum compensation available to you.

Contacting Guardian Injury Law

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