



## TAC common law claims after a motor vehicle accident in Victoria

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If you have been injured in a transport accident in Victoria and that accident was not your fault, and you have permanent injuries, you have the right to pursue a claim with the TAC for pain and suffering and economic loss compensation. These claims are also known as [TAC common law claims](#). TAC common law compensation is a claim in addition to your statutory TAC entitlements like weekly payments and medical expenses.

### What is a TAC common law claim?

A TAC common law claim is a claim for pain and suffering and economic loss compensation that is pursued against the TAC if you have been involved in an accident where the other driver was at fault and you have sustained permanent injuries.

### Am I eligible to bring a TAC common law claim?

To be eligible to pursue a TAC common law claim you must have been involved in an accident that was caused by the negligence of a motor vehicle that is registered in Victoria. This includes accidents involving cars, trucks, motorbikes, trams and trains. The accident also needs to have caused you permanent serious injuries.

It is crucial that you have lodged a claim with the TAC within 12 months of the accident or 12 months of becoming aware of your injuries. You will know if you have a valid TAC claim as you will have a TAC claim number. If you were admitted to hospital as a result of the motor vehicle accident, the hospital would have lodged a claim on your behalf. The TAC will have paid for your medical and like expenses and lost wages. For more detailed information, see our blog ["3 things to know when claiming TAC benefits after a road accident."](#)

# What are the requirements to obtain TAC common law compensation?

There are three crucial criteria for pursuing a successful TAC common law claim.

## Serious injury threshold

To pursue a TAC common law claim, you must have a “serious injury”. A serious injury is a long-term impairment of a body part or a body function.

There are two ways that you can be assessed as having a serious injury. The first is when you are assessed as having a greater than 30% whole person impairment for your [impairment benefit claim](#). This is called a deemed serious injury.

Alternatively, you can make an application to the TAC for a serious injury certificate.

To determine if you have a serious injury, the TAC will look at the medical evidence including your medical records, treating doctor’s reports and independent medico legal doctor’s reports. They will consider your affidavit about the circumstances of the accident and the effect it has had upon you along with affidavits of family members or friends that are lodged in support of your application.

The TAC particularly look at the:

- nature and severity of the injury,
- treatment you have received and will require in the future including medication, surgery, rehabilitation;
- impact of the injury upon your ability to work;
- impact of the injury on your ability to undertake your activities of daily living such as cooking, cleaning, washing and shopping; and
- impact of the injury upon your hobbies and past times.

## Negligence – was someone else at fault for the road accident?

The second criteria that needs to be met is that your injuries were caused by the negligence of a motor vehicle registered in Victoria. That is that the person driving the motor vehicle has failed in their duty of care and caused your injuries.

There are many and varied examples of negligence involving motor vehicles such as drivers failing to follow the road rules including speeding, failing to give way and driving under the influence of alcohol and drugs to name a few.

## Causation

The third criteria that must be met for a successful TAC common law claim is that your injuries were “caused or aggravated” by the negligent motor vehicle accident.

This is particularly important, and often difficult, if you have experienced pre-existing injuries unrelated to the motor vehicle accident. Receiving good medical care is often crucial to ensure that causation can be established.

If you meet all of the above criteria, you will likely be eligible for a TAC common law claim. However, these claims are complex and require careful consideration of all aspects of your injury and the impact it is having on your life. To ensure you receive ALL the compensation you deserve, it is highly recommended that you seek legal advice when pursuing a TAC common law claim.

[FREE ADVICE TO FIND OUT WHERE YOU STAND: 1300 700 761](#)

## What is the TAC common law process?

Once your injuries are determined to be permanent and stable, a serious injury application is lodged upon the TAC. The TAC will determine if you meet the serious injury criteria.

If your serious injury application is rejected, then proceedings will need to be issued in the County Court of Victoria for a judge to decide if you meet the serious injury definition under the *Transport Accident Act 1986*.

If your serious injury is accepted by the TAC, then a conference will be scheduled with the TAC to try and resolve your common law claim. If your claim cannot be resolved, then proceedings will need to be issued in either the County or Supreme Courts of Victoria.

There can be several reasons why claims don't resolve early on, and proceedings need to be issued in court. This could be because there is a dispute about whether the accident was caused by negligence, a dispute about the severity and nature of your injuries or there is a difference in the compensation being offered by the TAC and what you are seeking or what your lawyer says your claim is worth.

## What compensation will I receive from a TAC common law claim?

TAC common law claims provide compensation for both pain and suffering and economic loss if you have been unable to work as a result of the injuries sustained in the negligent motor vehicle accident.

The statutory maximum for pain and suffering claimable in Victoria as of June 2024 is \$639,200.00. The statutory maximum claimable for economic loss is \$1,438,310.00. These figures are indexed annually.

## Will the TAC continue to pay medical expenses when my TAC common law claim resolves?

It is important to know that when your TAC common law claim resolves, the TAC will continue to pay for your reasonable medical expenses. This can include medication, doctors' visits, specialist appointments, surgery, rehabilitation, psychology support, home help and carer support services.

## What is the timeframe for pursuing a TAC common law claim?

The *Limitation of Actions Act* provides a strict six-year timeframe for a common law claim to be commenced.

The six-year time frame is from the date of the accident/injury or the date of becoming aware of your injuries. It is crucial that you seek advice about your common law entitlements as soon as possible after the accident to ensure you are protected.

## What is the cost of pursuing a TAC common law claim?

At Guardian Injury Law, we act on your behalf with regard to a TAC common law claim on a "no win, no fee or expenses" basis. This means that you only pay our fees when your claim is successful.

Whilst the TAC will pay part of your legal costs, the balance will need to be deducted from your settlement. We charge for the work undertaken (if your claim is successful), and our costs need to be reasonable and proportionate to any outcome you receive.

## Why engaging a TAC lawyer is important

Engaging an experienced TAC lawyer is crucial to ensure that you receive the maximum compensation you are entitled to. A TAC lawyer will be able to explain the TAC common law process clearly to you and guide you through the necessary steps.

At Guardian Injury Law, we understand the impact that motor vehicle accidents can have on people. We are dedicated to fighting fiercely and fearlessly so that maximum compensation is obtained. Call us today to find out where you stand.

## Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

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