



TAC claims for nervous shock following a motor vehicle accident

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What is a nervous shock claim?

If you've been impacted by witnessing a transport accident or witnessing a loved one seriously injured following an accident, you may be entitled to seek compensation from the Transport Accident Commission ("TAC") for the psychological injuries you developed. This is called a nervous shock claim.

The aftermath of a motor vehicle or transport accident can be incredibly distressing. Witnessing such a traumatic event or seeing someone close to you injured as a result of the incident can also lead to the development of a psychiatric injury. In this blog, we explore the compensation available through a [TAC claim](#) to people who experience nervous shock as a result of a transport accident.

Eligibility for TAC compensation for nervous shock

While some states in Australia have stricter limitations on who can claim compensation for psychological trauma after witnessing a transport accident, Victoria offers a more inclusive approach.

To be eligible for TAC compensation due to nervous shock you must have sustained an injury directly caused by or arising out of the use of a road or transport vehicle, such as a car, motorbike, truck, bus, train or tram.

To be successful in most cases, you would need to have:

- directly witnessed the accident;
- witnessed a loved one seriously injured or killed right after the accident; or
- been involved in the accident yourself.

The TAC recognises "nervous shock" as a compensable injury, allowing you to make a claim if you witnessed a transport accident or its immediate aftermath. This includes situations where you developed a psychiatric illness after seeing a friend or family member seriously injured.

Under section 3(1) of the *Transport Accident Act*, the definition of an injury is included as:

“nervous shock suffered by a person who was directly involved in the transport accident or who witnessed the transport accident or the immediate aftermath of the transport accident.

If your family member has died as a result of a transport accident, in addition to your own TAC claim for nervous shock, you may be entitled to receive TAC death benefit entitlements which will help cover the cost of funeral expenses and provide financial support for dependents.

You can read more about TAC death benefit entitlements in our earlier blog, [“TAC death benefit claims after a road accident in Victoria”](#).

We recommend you speak with one of our experienced TAC lawyers to help maximise the compensation available to you.

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

What is a recognisable psychiatric injury in TAC nervous shock claims?

It's important to understand that the TAC doesn't compensate for simply feeling overwhelmed or sad after witnessing an accident or seeing a loved one seriously injured. You must have a **diagnosable psychiatric illness**. This requires a formal diagnosis from a qualified medical professional like a psychiatrist.

It is common for people who witness an accident or someone seriously injured by an accident to develop post-traumatic stress disorder (PTSD), anxiety, adjustment disorder, major depressive disorder and other serious psychological injuries. These (and other illnesses/conditions) are diagnosable psychiatric illnesses.

Common symptoms of a psychological injury/illness for the purposes of a TAC nervous shock claim include:

- difficulty talking or thinking about the accident;
- avoiding places, activities or people associated with the accident;
- negative shifts in thinking or mood, such as feeling emotionally numb or detached;

- changes in physical and emotional reactions, including sleep problems, difficulty concentrating, and feelings of guilt or shame;
- intrusive memories, dreams, or flashbacks of the accident; and
- heightened alertness and being easily startled.

TAC benefits and compensation for nervous shock

In the first instance, a TAC claim should be lodged with the TAC if you believe you are experiencing psychological injuries after witnessing an accident or a loved one seriously injured or killed in an accident. Critically, you have 12 months from the date of the accident to lodge a claim or 12 months from the date on which the psychological injuries first became evident.

If your nervous shock claim is successful, you may be entitled to several benefits from the TAC, including:

- **Income benefits:** These can replace lost income for up to 3 years after the accident.
- **Medical expenses:** The TAC may cover reasonable and necessary medical costs associated with your treatment, including ongoing psychiatric care and treatment.
- **Impairment benefits:** If your psychological injuries are permanent and result in a greater than 10% whole-person impairment, you will be entitled to a lump sum compensation payment from the TAC.

TAC common law damages for nervous shock

In some cases, in addition to your statutory benefits referenced above, you might be eligible to pursue a TAC common law claim for damages against the driver or person responsible for the transport vehicle that led to the injury.

However, common law claims for nervous shock require meeting the stricter criteria of a serious injury, which is a greater than 30% whole-person impairment level and also showing that the person responsible owed a duty of care, which was breached.

Successful TAC common law claims often deliver sizeable amounts of compensation. If you believe your injury/illness meets the serious injury threshold for TAC common law damages, you should seek legal advice from an experienced TAC lawyer to ensure you maximise any compensation payable.

[FREE ADVICE FROM A TAC LAWYER: 1300 700 761](tel:1300700761)

Time limits for lodging a TAC common law claim

Generally, you have six years from the accident date or the day you became aware of your injury to lodge a TAC common law claim. If you were a minor at the time of the accident, the six-year window starts from your 18th birthday.

Missing this deadline typically extinguishes your right to claim compensation. There are limited exceptions where you may request an extension of time from the court. They will consider factors like the reason for the delay, whether it prejudiced the TAC's ability to defend the claim and the nature of your injury.

If your TAC common law claim is out of time, you should seek legal advice immediately.

Get help from a TAC lawyer

If you've witnessed a serious motor vehicle accident and are experiencing emotional distress, it's crucial to seek professional help. A psychologist or psychiatrist can assess your condition and provide a diagnosis if necessary.

Consulting a lawyer experienced in TAC claims can also be incredibly beneficial. At Guardian Injury Law, we can guide you through the claims process, determine your eligibility, and ensure you receive ALL the compensation you deserve.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

Amber Community – Road Trauma Support Services Victoria

At Guardian Injury Law, we are committed to using a trauma-informed approach with all our clients and actively working with their support network after involvement in a road accident in Victoria.

If you are seeking assistance and support to address the trauma you are experiencing as a result of a motor vehicle or transport accident, we recommend contacting [Amber Community](#).

Amber Community is a not-for-profit organisation that facilitates various support options for people affected by road trauma to contribute to the safety and well-being of Victorian road users. Amber Community can be contacted on 1300 367 797.

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- [Can I appeal a TAC decision I don't agree with?](#)
- [Motor vehicle accidents while working – is it WorkCover or TAC?](#)

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.