



THE INJURIES BOARD WARNING – WHAT MOST PEOPLE DON'T REALIZE

Dicky the bricky has had an unfortunate accident on a building site, as a result of which he sustained multiple serious injuries leaving him permanently disabled. As Dick is now contemplating taking action to recover his losses and compensation for his injuries he consults with a solicitor where he learns some startling truths about the reality taking a claim for compensation before the Injuries Board.

Under the Personal Injuries Assessment Board Act 2003, anyone intending to seek compensation for a personal injury (other than a personal injury arising out of medical negligence) must make an application to the Injuries Board formerly known as the Personal Injuries Assessment Board (PIAB). The Injuries Board handles personal injury claims relating to motor accidents, accidents in the workplace and claims involving public liability. The Act is principally designed to eliminate fraudulent personal injury claims and to reduce the cost of the delivery of compensation. Prior to 2003, our unfortunate accident victim Dick, whose accident involved a load of bricks falling on him when he tried to hoist them with a faulty pulley, would have had to commence his claim in the High Court at considerable expense for the insurance companies involved. His claim is against his employer, the main building contractor, the manufacturer of the faulty pulley, the company that hired the pulley to the builder and possibly the owner of the building under construction. This would involve at least three or four insurance companies and possibly five firms of solicitors and in excess of 40 personnel including barristers, doctors, engineers and other witnesses to attend at the High Court for the hearing of the claim.

By simplifying the claim process, the enormous expense in pursuing these claims has been largely removed for the benefit of the insurance companies. The 2003 Act also introduced severe penalties for fraudulent and exaggerated claims which is a measure that was long overdue and is to be welcomed.

However, Dicky the bricky is soon to discover that the Injuries Board, while on the surface appears to be the easy solution to his problems, in reality will end up delivering not one but several setbacks to his quest for the compensation he rightly deserves for the very severe injuries sustained by him through no fault of his own.

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AT A GLANCE HOW DOES THE INJURIES BOARD WORK?

1. First - a Claim is submitted in writing to the Injuries Board. In most cases it is critical that this be done within two years of the accident or injury.
2. Second-The Injuries Board then sends a Formal Notice of the Claim to the Respondent (a 'Respondent' is the term we use to describe the Person at fault and against whom a claim is made). It is vital that you identify the correct Respondent. If, at the outset, the Respondent fails to consent to the Injuries Board dealing with the claim, then the Injuries Board will not deal with the claim and will immediately issue permission in writing for the Claim to commence in Court. If this happens it is essential that you consult a Solicitor without delay as there is a risk that your claim may become statute barred if you delay.
3. Thirdly- If on the other hand the Respondent consents in writing to the Injuries Board dealing with the claim, then the Injuries Board arranges an Independent Medical Examination and requests details of your out of pocket expenses. You must ensure that your claim is fully prepared at this stage.
4. Fourthly:-The Assessment is made by the IB usually about 9 months after the claim is lodged, and you and the Respondent are notified of the outcome. It is critical that you obtain at this stage an opinion from an expert on whether the award of the Injuries Board is adequate to fully compensate you.
5. If satisfied with the result, both parties confirm agreement on the assessment within a limited time period and the Injuries Board then issues an Order to Pay.
6. Finally-If either party is unhappy with the result then the Injuries Board will issue written permission for you to take your claim to Court.

Dick is unlikely ever to work again after his accident and 6 months later he is in a bad way financially. Having consulted with his solicitor, Dick learns to his dismay that, notwithstanding the fact that he is the innocent victim of this accident, he will be obliged to pay his legal costs out of his award from the Injuries Board. Apparently the reason for this is that, according to the Injuries Board, accident victims are supposed to process their own claims without the need for legal advice. How could Dick process his own claim? How is he expected to know who is legally at fault for his accident? Who will pay for the several Medical Reports (350 – 500 euro each) that must be lodged with Injuries Board? How is he expected to calculate all his loss of earnings into the future, a job normally undertaken by an accountant or an actuary? What happens if the accident location is not surveyed immediately by an engineer and all the evidence is lost (especially if he has to take his case to court ultimately)? How is he expected to know if the award from the Injuries Board is adequate to compensate him or whether he is likely to get more in court? To add insult to injury, Dick is also advised what happens if he rejects the Injuries Board award and opts to take his claim to the High Court. If the Judge (who will be unaware of the amount of the Injuries Board award) awards less than the Injuries Board, then he will recover no legal costs at all in relation to the court case and will be left having to foot an even bigger bill of costs.

Injuries Board advertises prominently for processing of personal injury claims while ironically solicitors have been banned from the placing of such adverts or indeed from advertising 'no foal no fee' arrangements. The fact is that in excess of 90% of claimants employ solicitors to represent them when involved in an accident and indeed this is a fundamental legal right. A large

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proportion of Injury Board awards are rejected by claimants as they are simply inadequate and substantially greater sums awarded by the courts. The proposition that an accident victim should pursue a claim without the benefit of legal costs, and therefore legal advice, is unsustainable and the law should be changed to redress this anti-consumer injustice without delay. Genuine claimants only want fair play and reasonable compensation. This is rarely achievable through the Injuries Board. Why should they be made to suffer because of the sins of the fraudulent claimants? The only winners are the insurance companies.

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