

The Automobile Accident Insurance Act, RSS 1978, c A-35

Rules respecting tort actions

41.1(1) The following rules apply to an action pursuant to this section and sections 41 and 51.1:

...

- (4) In an action pursuant to this section, on the application of any party, the court may, in accordance with the regulations, direct that any compensation payable respecting all or any claimed categories of damages be provided for in the form of a structured compensation order.
 - (5) The court may make a direction pursuant to subsection (4) at any stage in the proceedings.
 - (6) In any action pursuant to this Part, the court shall, when awarding damages, set out under separate headings:
 - (a) the amounts that shall be awarded to any person for economic loss; and
 - (b) the amounts that shall be awarded to any person for non-economic loss.
- 2002, c.44, s.13.

Regulations

81(1) In addition to the powers conferred by The Saskatchewan Government Insurance Act, 1980, the Lieutenant Governor in Council may make regulations for the purpose of the better carrying out of the provisions of this Act according to its true intent and supplying any deficiency therein, and without prejudice to the generality of the foregoing the Lieutenant Governor in Council may make regulations:

...

(11) respecting structured compensation orders pursuant to section 41.1;

(3) Notwithstanding any other Act or law, any regulations made pursuant to this section may be made retroactive to a day not earlier than July 1, 2002.

R.S.S. 1965, c.409, s.79; 1968, c.7, s.8; R.S.S. 1978, c.A-35, s.81; 1980-81, c.34, s.20 and c.83, s.3; 1984-85-86, c.1, s.39; 1992, c.20, s.5; 1994, c.34, s.15; 2000, c.5, s.17; 2002, c.44, s.27; 2004, c.35, s.20.

103(1) In this Part:

- (a) “economic loss” means the following losses resulting from bodily injury caused by a motor vehicle that arise out of an accident:
 - (i) in the case of an insured who is entitled to a benefit pursuant to Division 4:
 - (A) any past or future income loss suffered by the insured in excess of the yearly employment income attributable to the insured pursuant to Division 4; or
 - (B) if the insured receives a benefit pursuant to section 117, 118, 119 or 120, any past or future income loss suffered by the insured in excess of the benefit provided;
 - (ii) in the case of an insured who dies as a result of an accident, any past income loss or funeral expenses suffered by the insured’s surviving spouse or any dependant in excess of the benefits provided pursuant to Division 5;
 - (iii) in the case of an insured who is entitled to any benefit pursuant to Divisions 3 and 7, any past and future loss suffered by the insured in excess of the benefits to which the insured is entitled;
 - (iv) in the case of an insured who is entitled to compensation for loss of earnings pursuant to The Workers’ Compensation Act, 2013 or any other Act, or any legislation of any other jurisdiction, that relates to the compensation of individuals injured in accidents:
 - (A) any past or future income loss suffered by the insured in excess of the benefits paid pursuant to section 37 of The Workers’ Compensation Act, 2013, section 207 of this Act or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation for income loss of individuals injured in accidents;
 - (B) any past and future loss suffered by the insured’s surviving spouse or dependant in excess of the benefits paid pursuant to sections 80, 81, 83, 85 and 86 of The Workers’ Compensation Act, 2013, section 207 of this Act or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals for the death of an individual in an accident; or
 - (C) any past and future loss suffered by the insured in excess of the benefits paid pursuant to sections 103, 104, 109 and 111 of The Workers’ Compensation Act, 2013 or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation for medical aid of individuals injured in accidents;
 - (b) “insured” includes any prescribed person or class of prescribed persons.
- (2) Notwithstanding section 40.1 of this Act, but subject to section 43 of The Workers’ Compensation Act, 2013, an action may be brought in the Court of Queen’s

Bench to recover any damages of the insured or of the insured's surviving spouse or dependant for economic losses.

- (3) The following rules apply in an action pursuant to this section:
- (a) the rules of negligence and apportionment of liability apply;
 - (b) in determining economic loss pursuant to subclause (1)(a)(i) or paragraph (1)(a)(iv)(A), the court:
 - (i) shall calculate any award based on the insured's past or future income loss after deducting any applicable taxes pursuant to The Income Tax Act, 2000 and the Income Tax Act (Canada), any premiums pursuant to the Employment Insurance Act (Canada) and any contributions pursuant to the Canada Pension Plan; and
 - (ii) shall not award any amount for income loss for the first seven days after the accident;
 - (c) subject to clause (d), in determining an insured's or insured's surviving spouse's or dependant's economic loss, the court shall deduct from any award all amounts the insured or the surviving spouse or dependant has received or is entitled to receive from any government or agency of government, from any public or private insurance scheme or from any other scheme that lessens the economic loss;
 - (d) in determining economic loss pursuant to subclause (1)(a)(ii) or paragraph (1)(a)(iv)(B), the court shall not deduct from any award any amounts the insured's surviving spouse or dependant has received or is entitled to receive from a contract of life insurance as defined in The Saskatchewan Insurance Act.
- (4) The deductions mentioned in subclause (3)(b)(i) are to be calculated using the insured's total income at the date of the accident and not the portion of income representing the past or future income loss.
- (5) Notwithstanding any other Act or law, no government, agency of any government, public or private insurer or other person who is required or liable to pay an amount mentioned in clause (3)(c) has any right of subrogation to recover that amount.
- (6) In an action pursuant to this section, on the application of any party, the court may, in accordance with the regulations, direct that any compensation payable respecting all or any claimed categories of damages be provided for in the form of a structured compensation order.
- (7) The court may make a direction pursuant to subsection (6) at any stage in the proceedings.

2002, c.44, s.30; 2013, c.W-17.11, s.190.

Regulations

216(1) The Lieutenant Governor in Council may make regulations:

- (k) respecting structured compensation orders pursuant to section 103;

- (3) A regulation made pursuant to clause (1)(o) or (x) may be made retroactive to a day not earlier than the day on which this Part comes into force.

2002, c.44, s.30; 2004, c.35, s.29.

Personal Injury Benefits Regulations, RRS c A-35 Reg 3

Residence and Structured Compensation Orders

Structured compensation orders

- 10(1) Before directing that any compensation payable pursuant to subsection 103(6) of the Act be provided for in the form of a structured compensation order, the judge of the Court of Queen's Bench making the order shall satisfy himself or herself that the security for payment is adequate.

(2) For that purpose, the judge may require the party against whom the damages are awarded or that party's liability insurer to purchase an annuity from a life insurance company that is licensed pursuant to The Saskatchewan Insurance Act and that has sufficient assets to ensure that its obligations will be met.

13 Jan 95 cA-35 Reg 3 s10.

Powers of court

- 11(1) In structuring compensation, a judge of the Court of Queen's Bench may take into consideration any proposal for structuring compensation made by a party to the action.

(2) In order to assist the court in assessing any proposal for structuring compensation or in structuring the compensation, the court may order the insurer to engage the services of a qualified independent expert to assess any proposal or to make recommendations respecting structuring the compensation.

13 Jan 95 cA-35 Reg 3 s11.