

THE GOOD, THE BAD & THE UGLY OF ONTARIO AUTOMOBILE INSURANCE LAW

10 Things Every Ontarian Should Know

By Gavin Cosgrove, Partner, Bergeron Clifford LLP

THE GOOD

No-Fault Benefits

The Statutory Accident Benefits Schedule, also referred to as SABS, is a form of no-fault insurance coverage in Ontario. Certain benefits are available to any person injured in a car accident, regardless of who is at fault.

A Coming Increase to Funding for Ontario's Most Helpless

In the current government's spring budget, they proposed that Ontario raise the default benefit limit for catastrophic injuries to \$2 million from the current \$1 million.

Give Me a Minute, Officer

- As of September 5, 2019, Ontario drivers can now carry electronic proof of their auto insurance on their smartphones or other devices.

THE BAD

The "Cap"

The Supreme Court of Canada imposed a \$100,000 cap on awards for non-pecuniary ("pain and suffering") damages in 1978. It was intended to put a lid on "widely extravagant" liability claims. That cap is indexed to inflation, so in today's dollars it is more than \$350,000.

The "Threshold"

Section 267.5(5) of the Insurance Act alleviates liability for damages for non-pecuniary ("pain and suffering") losses from a defendant in an MVA claim unless the injured person has sustained a

"permanent, serious impairment of an important physical, mental, or psychological function". Section 267.5(3) provides similar protection with respect to health care expenses.

The "Deductible"

The deductible for non-pecuniary ("pain and suffering") losses when a tort award does not exceed the monetary threshold is \$38,818.97 in the case of damages from January 1, 2019 until December 31, 2019.

The "Monetary Threshold"

The monetary threshold beyond which the deductible amount does not apply is \$129,395.49 in the case of damages for non-pecuniary ("pain and suffering") losses from January 1, 2019 until December 31, 2019.

THE UGLY

10 Days to Give Notice

If you are in a car accident where improper road signage or a lack of ploughing played a role, no legal action shall be brought for the recovery of damages unless the municipality is notified of the claim and injury within 10 days of its occurrence (s. 44(1), *Municipal Act*).

Ontario's Loser Pays System

In Ontario, the losing party in a legal action faces the possibility of being ordered to pay for some or all the winning party's legal costs and disbursements.

2-year Limitation Period

The Limitations Act establishes that you have exactly two years, starting from the day you suffered the loss, injury, or damage, to file a claim.

Disclaimer: The information presented here is not, nor is it intended to be, legal advice. You should consult a lawyer for advice regarding your individual situation.

KINGSTON
HEAD OFFICE
1 Hyperion Crt
Kingston, ON K7K 7G3
613.384.5886

OTTAWA
305-185 Somerset St W
Ottawa, ON
K2P 0J2
613.241.4777

PERTH
31 Foster St
Perth, ON
K7H 1R8
613.267.4313

WHITBY
104-173 Brock St N
Whitby, ON
L1N 4H3
905.668.3424

CARLETON PLACE TOLL FREE
164 Bridge Street
Carleton Place,
ON K7C 2V7
613.257.5887
1.866.384.5886

www.bergeronclifford.com