

Post-Traumatic Stress Disorder – claiming compensation

Have you recently received a diagnosis of Post Traumatic Stress Disorder (PTSD) and are wondering whether you are eligible to claim compensation? The answer is generally, yes, however this is usually determined on a case-by-case basis.

This article explains PTSD, circumstances where compensation may be possible and how to make a claim. It provides general information only and we recommend you obtain professional advice relevant to your individual circumstances.

What is PTSD?

PTSD is a psychological disorder usually occurring amongst people who have not been able to recover after experiencing or witnessing a distressing or terrifying event.

PTSD may last months or sometimes years, often triggered by memories of the trauma, accompanied by intense anxiety, depression, and physical reactions.

People who have PTSD usually experience nightmares, flashbacks, heightened reactivity to stimuli and anxiety or depression, and generally avoid situations that trigger their trauma.

Treatment for PTSD often includes different types of psychotherapy and medications to manage symptoms.

In what scenarios can I claim compensation for my PTSD?

There are a few different scenarios where you may be able to make a claim for compensation.

One of the most common situations is due to historical sexual abuse or sexual/physical assault. Often, victims of these crimes have struggled with anxiety, depression, drug/alcohol abuse, and only realise that this has been brought about as a result of them trying to mask the triggers that have resulted in their PTSD.

If you believe you have experienced any of the above, you may be able to bring a claim against the perpetrator or institution where the abuse occurred, such as a school, church, youth group, or against the state if the abuse occurred whilst under state care.

Where workplace bullying or trauma from suffering or witnessing an injury at work has caused an employee to develop PTSD, that employee may be entitled to lodge a work cover claim with their employer or their employer's insurer.

People who have suffered PTSD from being in, or witnessing a motor vehicle injury may also apply for compensation under a Compulsory Third Party (CTP) claim.

If a person has been unable to work for at least six months due to their PTSD symptoms, and continues to be unable to work, they may be eligible for Total Permanent Disability (TPD) compensation. Most superannuation funds include a TPD insurance policy.

Claiming compensation for PTSD

To make a successful compensation claim, you need to show that you acquired PTSD from the organisation or person you are bringing the claim against. For example, if you acquired PTSD from your workplace due to ongoing bullying/harassment and your employer failed to take reasonable steps to resolve the bullying/harassment.

If you are claiming compensation against your employer for work related PTSD, you will need to complete and lodge a work cover claim with your employer or their insurer. You should ask your GP to refer you to a psychiatrist as soon as possible, because you will also be required to undergo an independent assessment by a psychiatrist to confirm your PTSD diagnosis. If your work cover claim is accepted, you may receive partial or full amount of wages whilst you are off work and may be eligible for damages for pain and suffering and other substantial compensation.

If you have acquired PTSD as a result of institutional abuse or abuse by an individual, then you will need to bring legal proceedings for damages against the institution/perpetrator. This is a complex area of law, and we recommend you seek legal advice to give your claim the best possible chance of success.

Can I claim TPD compensation for my PTSD?

Most superannuation funds include TPD insurance in their policy. If you have an active superannuation fund and are covered for TPD insurance, you can lodge a claim for TPD compensation. To be eligible for TPD compensation under your superannuation fund, you are generally required to show that you have been unable to work for at least six months as a result of a psychological or physical injury and be unlikely to ever return to work within your education, training or experience.

We can help you to find out your compensation rights under your superannuation.

Claiming CTP compensation

If you do not know the name and address of the at fault driver, or the registration number of the at fault vehicle then you only have 9 months from the date of the accident within which to secure a compliant Notice of Claim from the nominal defendant in Queensland, failing which you will lose your compensation rights forever. But, if you know the drivers

details, or better still, the registration number of the at fault vehicle, then you have three years from the date of the accident to start legal proceedings to keep your claim alive.

There is no specific time frame to report the accident to Police, but to make an injury claim, it must be reported. It is preferable to do this as soon as possible

Making a work cover claim

Report the accident to your employer as soon as possible. You have six months to submit a workers compensation claim with your employer and three years to make a work injury damages/common law claim

For other types of claims, you are generally required to lodge a claim within three years from the incident that caused your PTSD. This does not apply to historical sexual assault matters, provided you were under 18 years old when the abuse occurred. TPD claims should be within 5 years of the date of disability There may also be other exceptions to time limitations. If you believe you may be out of time to bring a claim for compensation, we strongly recommend you seek urgent legal advice because, in some cases it might be possible to ask the court to extend the time limit, but usually only by a short period.

What type of damages can I receive for my PTSD?

The type of compensation you may receive will depend on how you acquired PTSD. It will also depend on your circumstances.

If you suffered PTSD as a result of your employment or a car accident, you may receive income support payments, reimbursement of medical expenses, or lump sum damages for future loss of income and/or pain and suffering.

Conclusion

If you want to claim compensation for PTSD, you need to be able to show that you acquired your PTSD from the organisation or person you are bringing a claim against, such as your employer for work related PTSD. In this situation, you will need to complete and lodge a work cover claim with your employer or their insurer.

If you have acquired PTSD as a result of institutional abuse or abuse by an individual, you will need to bring legal proceedings for damages against the institution/perpetrator.

You may also apply for compensation under your CTP cover for PTSD which resulted from a motor vehicle accident.

If you have an active superannuation fund and are covered for TPD insurance, you may also lodge a claim for TPD compensation, regardless of how you acquired PTSD.

If you or someone you know wants more information or needs help or advice, please contact us on 07 5538 2766 or email jeff@dwyerlaw.com.au today and please ask about our No Win No Fee policy.