

Manager/Supervisor Risk Management  
#15– 12/22/2011

TOPIC: AUTO DAMAGES

The purpose of this topic is two-fold. The first is just to make you aware of what costs flow out of an auto accident. The second is to contrast “damages” with workers’ compensation “benefits.” After the New Year we will be moving onto workers’ compensation topics, and will be taking about benefits.

Damages, in the simplest of terms, are monies paid to compensate or indemnify a party for a loss caused by another. In an auto liability claim they can be broken into three parts:

Special Damages (out of pocket costs) which might include:

- Medical costs, past and future;
- Wage loss, past and future;
- Property damage, both to the auto and contents.

General Damages which might include:

- Pain and suffering;
- Humiliation;
- Loss of consortium.

Punitive damages are awarded by the court to punish a party (often for DUI or reckless driving).

- In 34 years YCPARMIA has never had an auto punitive damage issue.

An additional cost from an accident is the physical loss – damage to the entity’s, or your private vehicle.

A couple of general comments:

- Special damages are easy to determine because they can be documented and measured.
  - Medical costs are usually subject to a lien by whoever paid for them, so the claimant usually has to transfer the recovered funds to the provider.
  - Wage loss can’t be speculative – they are projected from what the person was making prior to the accident.
  - Property damage is based on actual cash value – we pay to replace with like kind and quality, not new.
- General damages are subjective, and not easily measured.
  - If the claimant does not carry (the state required) auto liability insurance at the time of the accident they cannot recover general damages. (So it is vitally important to get insurance information from the other party at the accident scene.)
- Comparative negligence: the claimant’s recovery of damages is reduced by their share of responsibility or fault, if any, in causing the accident.

The member’s employee who is injured in an accident can pursue damages against the responsible party, but can only get benefits provided under the Labor Code in a claim against their employer or their co-workers for an accident that occurs during their employment.

Next topic: Workers’ Compensation – Why Pay?