

## **\$50,000 for a Broken Ankle**

### **The Issue**

A simple case which values a nasty broken ankle for a (then) 34 year old man injured in a bar fight, which required surgery and the installation of a metal plate and numerous screws to set his injured ankle.

### **Why This Matters**

This is one simple illustration of the type of factors considered by a Court when assessing the pain and suffering damages claims of a plaintiff.

**Legal Speak** – all cases are different, so you cannot apply a formula to any one injury. But illustrations over a broad spectrum of cases help to inform any assessment. Car insurers can ask for background information and identity confirmation for all service providers who seek to provide treatment to people involved in car accidents.

### **The Details**

The recent Ontario Superior Court case of [Enros v. Adelaide Investments Inc.](#), 2012 ONSC 368 (CanLII) is unusual in that it was undefended at Trial.

This means that the plaintiff “won” the case prior to the Trial starting and the short Trial was only devoted to assessing damages.

This particular ankle fracture was comminuted (meaning that the bone was broken in several spots, increasing the difficulty of setting the bone via surgery) and the plaintiff's injuries and problems are described as follows:

- [20] At the hospital he underwent an operation of approximately 6 hours. An orthopaedic surgeon assessed the ankle fracture and stabilized the ankle by way of a plate and screws. Although he was discharged from the hospital that day in a soft cast, he was instructed that he could have no weight-bearing on his right leg for approximately 30 days and he was required to give himself daily injections with a blood thinner to prevent post-operative blood clotting and its potential dangers.
- [21] Mr. Enros was essentially bedridden for the one month period and was unable to have any mobility, even with crutches, until approximately 6-8 weeks after the incident.
- [22] He required extra-strength pain-killers, such as Percocet and Tylenol 3, to combat his constant pain and discomfort. After the 6-8 week period, the soft cast was removed but even with its removal and his increasing use of crutches, he never went downstairs from his bedroom on the second storey unless it was absolutely necessary.
- [23] In the beginning of August 2006 approximately three months after the incident, he commenced a physiotherapy program which enabled him to put some weight on his right leg, having approximately four therapy sessions per week. He continued with a home physiotherapy program and returned to light duties at his workplace with the Toronto West Detention Centre on the first work day following Labour Day 2006.

The plaintiff also appears not to have returned to any of his previous sporting activities nor able to do many of the household chores he previously performed.

## More Background Information

For related illustrations of this issue, please visit our website for further information:

- Our blog – June 4, 2009 - [Car Accident Injuries > How Much is Your Pain and Suffering Worth?](#)
- Our blog – June 5, 2009 - [Pain and Suffering Damages in Canada > The Sky is Not the Limit](#)
- Our blog – September 13, 2010 - [Dying From Car Accidents > Families of Deceased To Receive More in Compensation](#)
- Our blog – January 20, 2010 - [Lawsuit Damages for Pain and Suffering Injuries from Car Accidents – Bill 198 Threshold](#)
- Our blog – September 22, 2010 - [Suing Your Own Insurance Company for Denying Your Claim > \\$5,000 in Damages and \\$75,000 in Legal Costs](#)
- Our blog – March 7, 2011 - [Double Recovery for One Accident? The Interplay of Long Term Disability Insurance and Car Accidents](#)
- Our blog – March 9, 2011 - [Double Recovery for One Accident? How About a Double Deduction against your Damages? A Plaintiff's Perspective.](#)
- Our blog – March 14, 2011 - [Double Deduction against your Damages? A Defence Perspective](#)

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