

LAW OFFICES OF
JOHN C. DEARIE
& ASSOCIATES



Questions & Answers on:
**MOTOR VEHICLE
ACCIDENTS**

ANSWERS TO THE 10 MOST COMMONLY ASKED QUESTIONS

Henry Ford's automotive invention, almost a century ago, changed virtually everyone's life, but with it came motor vehicle collisions resulting in bodily injury to drivers, passengers, pedestrians and bystanders.

Attorney Tom Boyle, who heads the Motor Vehicle Accident section of our Personal Injury Department, possesses extensive knowledge of New York's "No Fault" Law, the medicine associated with high-impact injuries and the techniques required for accident site reconstruction and investigation.

Proposed changes in State Law, along with recent court case decisions in the Motor Vehicle accident field, demand an experienced legal team like ours to counsel individuals in maximizing the financial settlement, or jury award, for their injuries.

Attorneys in our office have compiled the "9 Most Commonly Asked Questions and Answers on Motor Vehicle Accidents." We trust you will find this information helpful.



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- 1. Is an injured party limited to recovery of "No Fault" benefits?**
Not necessarily. It depends on the seriousness of one's injury. The extent of the injury represents the key factor in determining if a financial recovery is limited to "No Fault." With more serious injuries, a person may recover for the pain and suffering experienced.
- 2. Is there a specific time period during which my "No Fault" Claim must be filed?**
Absolutely, yes. And it is strictly enforced by the insurance carriers. **SIMPLY STATED, WITHIN THIRTY (30) OF YOUR MOTOR VEHICLE ACCIDENT, A "NO FAULT" CLAIM MUST BE FILED.** Failure to do so, in virtually all cases, means you will lose your "No Fault" benefits.
- 3. What then are the injuries classified as "serious" under the "No Fault" law that would permit me to recover for my pain and suffering?**
The Law identifies nine qualifying "serious injuries" to permit a pain and suffering compensation. These are 1) death; 2) disfigurement — a mangling of a body part or amputation; 3) significant disfigurement — basically a facial scarring, which alters for the worse an individual's natural appearance; 4) fracture; 5) loss of fetus; 6) permanent loss, or use, of a body organ; 7) permanent limitation of a body organ (i.e., herniated or bulging disc); 8) significant limitation of a body function (i.e., knee injury, partial hearing loss, tear of ankle ligaments, etc.); 9) non-permanent medically determined injury preventing the performance of a person's customary, daily activities for more than 90 days in the first 180 days after the injury.
- 4. What should I do if I am injured in a motor vehicle accident?**
Because a motor vehicle accident site is a rapidly changing environment and the necessity exists to quickly evaluate the seriousness of one's injury, it is important to consult with an attorney almost immediately after the incident to permit a thorough site investigation, the taking of photographs and the prompt interviewing of witnesses. Time is critical when conducting an investigation while the accident conditions are in tact as much as possible and while the memories of witnesses are fresh.
- 5. Is there a maximum amount recoverable under the "No Fault" system?**
Yes, the aggregate amount of benefits to which each injured party is entitled under the Law totals \$50,000.
- 6. What is meant by the phrase, "Basic Economic Loss?"**
Basic Economic Loss benefits generally fall into one of three categories, namely: 1) medical expenses resulting from the accident; 2) lost earnings or wages, totaling up to \$2,000 per month and 3) out of pocket expenses, such as transportation costs, housekeeping, etc.
- 7. What is meant by the term "Statute of Limitations?"**
It is a time period established by Law, during which your suit must begin. Generally, the time frame is measured from the date of the accident. Courts demand strict compliance with the Statute of Limitations; thus, failure to bring your action timely normally results in the loss of your case.
- 8. What is the Statute of Limitations for motor vehicle accidents?**
In New York State, most personal injury cases have a three-year Statute of Limitations period calculated from the date of the accident. However, there are specialized cases with shorter time frames (i.e., medical malpractice - 2½ years, wrongful death - 2 years). For example, if a motor vehicle accident occurred on April 10, 2006, the case must be put into suit by April 10, 2009.
- 9. What is a wrongful death suit resulting from a motor vehicle accident?**
It is a lawsuit brought by potential beneficiaries, usually family members, of the deceased who was killed by the negligence or wrongful conduct, of another party operating a motor vehicle. A common example occurs when a parent is fatally injured in a crash, with the lawsuit brought on behalf of the surviving spouse and/or children. Remember, this legal action must begin within two years of the accident victim's death.
- 10. How much does it cost to have a motor vehicle injury Case evaluated and what is the legal fee for an attorney to represent me?**
Our law office, like others, provides a full and free consultation to review and investigate all facts surrounding a motor vehicle accident. If you choose our firm to represent you, the legal fee is calculated on a contingency basis. That means there is no legal fee unless a jury award or settlement is obtained for you. If you do achieve a financial recovery, then the attorney's fees equals 1/3 of the award or settlement. In short, there is no up-front, out-of-pocket expenses for you to have your case litigated.

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