

Damages

Damages refer to the money that a successful plaintiff is awarded upon winning a civil trial. It refers to any losses that flow directly from the wrong. Keep in mind that the purpose of civil law is not to punish the wrongdoer as that is the job of penal or criminal law. Similarly, the law cannot turn back the hands of time or heal broken bones nor can money ever take the place of one's former health.

Rather, the purpose of awarding monetary damages is to return the successful litigant to the position that they should have been in. Since the courts do not have magical powers, money is the law's only effective way of doing that.

Just as there are different types of losses that can arise, there are different types (or "heads") of damages. The most well known are "general" damages, that is, compensation for pain and suffering. However, there are also damages for past income losses, damages for future losses of income, damages for loss of opportunity, damages for the costs of future care and special damages. In addition to all of the above, there are also such things as aggravated damages or punitive damages.

If any of this comes as news or as a surprise to you and you happen to have a personal injury claim, for example, you may want to consider hiring legal counsel to assist you. Not only are these things not news to them, they are also likely to not only know how to get them for you but how to get the maximum you are entitled to.

"Special" damages are awarded to reimburse the winning side for their out-of-pocket expenses, though there is very little that is special about them. To the contrary, they cover outlays for such things as prescription medicines, ambulance charges, dry cleaning, mileage for trips to the doctor, etc. In order to prove these damages, it is usually necessary to produce receipts or other evidence of payment.

Damages for past income losses, damages for future losses of income, damages for loss of opportunity and damages for the costs of future care are relatively self-explanatory.

To go into them in greater depth would take much more space than these narrow confines allow. Suffice it to say, however, that they are very important as they are often the largest part of a personal injury claim, especially for younger plaintiffs.

The issues of aggravated damages and punitive damages, however, are matters of more general interest. Everyone who has ever been injured at the hands of another tends to think the wrongdoer should be severely punished. However, it is very rare to get such an award because such damages are reserved for those types of cases where the court really wants to make a bold statement such as in the cases of sexual assault or an insurance company that cheats its own customers.

Even then, such awards are only likely where the criminal courts or other tribunals have not already given the wrongdoers a good thrashing. For example, if the defendant drove like a complete idiot, was a real jerk after the accident, lied to the police or fibbed under oath, that sort of conduct will not result in an aggravated or punitive damages award. Such things are just too ordinary for that.

Such aggravating factors may be relevant if there are issues of credibility but it should not theoretically increase the amount of damages. That doesn't stop the lawyers from bringing them up, though, because only the judges and juries know for sure why they give the awards they do.