

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
ACT	General Damages	Common law applies, and s99 <i>Civil Law (Wrongs) Act 2002</i> (CLWA) as to previous decisions of Court and inclusions for non-economic loss.	Common Law applies and s99 CLWA.		
	Interest on general damages	Interest allowed on general damages (generally 2% on ½ - 2/3).			
	Out of pocket expenses	Reasonably incurred medical expenses are payable. For accidents after 1 October 2008 - Part 3.2 <i>Road Transport (Third Party Insurance) Act 2008</i> (ACT) (“RTTPIA”) re early payment of medical expenses by insurer and part 4.6 payment for medical expenses and rehabilitation.	Calculated by reference to actual loss and generally includes any relevant refund amounts.		
	Interest on out of pocket expenses	Interest recoverable on the net amount the claimant has expended i.e. net of refunds.			
	Statutory Refunds	Medicare, Centrelink, Workers Comp, Comcare.			
	Past Economic Loss	Common Law applies. Calculated by reference to specific weekly loss. Global award may be made if a specific calculation cannot. Section 98 CLWA - upper limit on damages 3 x AWE.	Common Law applies. Calculated by reference to specific weekly loss. Global award may be made if a specific calculation cannot. Section 98 CLWA.		
	Past loss of superannuation	Common law applies. Generally calculated at 9% of Past Economic Loss.			
	Interest on past economic loss	Interest recoverable on the net loss i.e. less refunds.			
	Future economic loss	Common Law applies. Section 98 CLWA - upper limit on damages 3 x AWE.	Common Law applies. Section 98 CLWA.		

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
ACT	Future loss of superannuation	Common law applies. Generally calculated at 9% of Future Economic Loss.			
	Past care	Common law applies. Also damages under section 100 CLWA - domestic services to household.			
	Interest on past care	Interest recoverable.			
	Future care	Common law applies. Section 100 CLWA - domestic services to household.			
	Future expenses	Common law applies.			
	Fox v Wood	Common law applies.			
	Costs	For accidents after 1 October 2008 - limitations on costs for claims where damages excluding general damages less than \$50,000, and where mandatory offers beaten - RTTPIA and regs.	Section 181 CLWA - costs (excluding disbursements) limited to \$10,000 where damages less than \$50,000.		

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
NSW	General Damages/Non economic loss (NEL)	<i>Motor Accidents Compensation Act 1999 (MACA)</i> s131. No compensation for NEL payable unless assessed at > 10% whole person impairment (using AMA ed4 and Motor Accidents Guidelines). Maximum NEL indexed (<i>See s134 MACA</i>) \$390,000.00 (as at 1.10.08)	<i>Workers Compensation Act 1987 (WCA)</i> s66 and s67. Set amounts based on assessment of whole person impairment (WPI) for injuries after 1.1.02 (using AMA ed5 and WorkCover Guidelines) or as per Table of Maims (<i>s66 WCA</i>) for injuries pre 1.1.02	<i>Workers Compensation Act 1987 (WCA)</i> s66 and s67 as per no fault scheme. Only entitled to bring claim for work injury damages if assessed at at least 15% WPI	<i>Civil Liability Act 2002 (CLA)</i> s16. Maximum amount for NEL indexed annually. (Current maximum \$450,000.00 as at 1.10.08). Injuries are assessed as a % of most extreme case. Nil NEL payable if not > 14%. Sliding scale for 15% to 33% as per table contained in s16. For > 33% amount is exact calculation of the maximum

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
NSW	Interest on general damages (NEL)	No interest on NEL (<i>See s137 MACA</i>)	Not payable	Not payable	No interest on NEL (<i>See s18 CLA</i>).
	Out of pocket expenses	Reasonable and necessary hospital, medical, pharmaceutical and rehabilitation expenses related to the accident payable as incurred where liability is admitted (<i>See s83 MACA</i>)	Reasonable and necessary medical or related treatment and rehabilitation expenses paid as incurred (<i>See s60 WCA</i>). Maximum rates prescribed (<i>See ss61 to 64 WCA</i>)	Reasonable and necessary medical or related treatment and rehabilitation expenses paid up until conclusion of work injury damages claim (<i>See s60 WCA</i>)	Common law applies (reasonable and necessary medical and related treatment related to the accident).
	Interest on out of pocket expenses	Potential claim for interest (<i>See s137 MACA</i>)	Not payable	Not payable	Potential claim (<i>See s18 CLA</i>)
	Statutory Refunds	Medicare, Centrelink, Workers Comp,	Medicare, Centrelink, Workers Comp,	Medicare, Centrelink & workers comp past economic loss only	Medicare, Centrelink, Workers Comp.
	Past Economic Loss	Damages due to loss of earnings or deprivation of earning capacity (<i>See s125 MACA</i>) Calculated by reference to net weekly loss or the court can make a global award. Regularly indexed maximum (<i>See s146 MACA</i>)	Statutory amounts payable (<i>See s36, s37, s38, s39, s40 WCA</i>) depending on level of incapacity for work.	Damages due to loss of earnings. (<i>See s151G WCA</i>). Only if injury results in death or degree of permanent impairment of at least 15% WPI. Maximum not to exceed rate in s35 WCA (<i>See s151I WCA</i>).	Damages due to loss of earning capacity or deprivation or impairment of earning capacity. Calculated by reference to specific net weekly loss or court can make global award. Maximum claim is three times average weekly earnings at date of award. (<i>See s12 CLA</i>).
	Past loss of superannuation	9% of past gross economic loss.	Not payable	9% of past gross economic loss	9% of past gross economic loss (<i>See s15C CLA</i>)
	Interest on past economic loss	Potential claim. (<i>See s137(4) MACA.</i>)	Not payable	Potential claim. (<i>See s151M WCA</i>).	Interest payable from date loss first incurred

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
					until date court determines damages. (See s18(2) CLA) Interest rate regulated.
NSW	Future economic loss	Damages due to economic loss or deprivation of earning capacity (See s125 MACA) If an appropriate calculation cannot be made by reference to a specific net weekly loss, the court can make a global award. See also s126 MACA for assumptions the court must make. Regularly indexed maximum (See s146 MACA). 5% discount rate (See s127 MACA)	Statutory entitlement to ongoing weekly payments (see s36, s37, s38, s39 & s40 WCA) depending on incapacity for work. Potential entitlement up to age 65.	Damages due to the deprivation or impairment of earning capacity (See s151G WCA) only if degree of permanent impairment is at least 15% WPI. Maximum amount not to exceed rate in section s35 WCA (See s151I WCA). Up to age 65 only (See s151IA WCA) 5% discount rate (See s151J WCA)	Damages due to the deprivation or impairment of earning capacity calculated by reference to net weekly loss or the court can make a global award (See s12 CLA) Maximum amount three times average weekly earnings at date of award. See also s13 CLA for the assumptions the court is required to make. 5% discount rate (See s14 CLA)
	Future loss of superannuation	9% of future gross economic loss.	Not payable	9% of future gross economic loss	9% of future gross economic loss (See s15C CLA)
	Past care	<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care p/w for a minimum of 6 months. Maximum of 40 hours p/w. Rate is 1/40 th AWE for all NSW employees. See MACA s128 <u>Paid care</u> S129 MACA respite care.	<u>Gratuitous Care</u> No award for gratuitous care unless care provider loses income (See s60AA(3) WCA). <u>Paid care</u> Paid care only payable if assessed at at least	As for no fault scheme only up to conclusion of work injury damages claim.	<u>Gratuitous Care</u> Must meet of threshold of at least 6 hours of care p/w. The services must be reasonable and the need arises solely because of the injury. Maximum of 40 hours per week. Rate is 1/40 th AWE for all

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
			15% WPI or required temporarily (6 hours p/w or less and for not more than 3 months). (See S60AA WCA)		NSW employees. (See s15 CLA)
NSW	Interest on past care	No interest payable (See s137 MACA)	Not payable	Not payable.	No interest payable on past gratuitous care services. (See CLA s18).
	Future care	<u>Gratuitous Care</u> Must be required for at least 6 hours p/w (See s 128 MACA) <u>Paid Care</u> Claimed at commercial rates based on care needs related to the accident. No hourly threshold.	Same as above (See s60AA WCA)	Not payable	<u>Gratuitous Care</u> Only if required for at least 6 hours p/w (See s15 CLA and see also s15B) <u>Paid Care</u> Claimed at commercial rates based on care needs related to the accident. No hourly threshold.
	Future expenses	Reasonable and necessary medical and related treatment related to the accident.	Ongoing (potentially) lifetime entitlement to reasonable and necessary medical and related treatment (See s60 WCA).	Not payable	Common law applies (reasonable and necessary medical and related treatment related to the accident).
	Fox v Wood (tax paid on weekly payments)	Claimable only in situation where there is a workers compensation refund.	Not applicable	Claimable.	Claimable only in situation where there is a workers compensation refund.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
NT	General Damages	Proceedings for damages not available: section 5 <i>Motor Accidents (Compensation) Act</i>	Proceedings for damages not available: section 52 <i>Workers Rehabilitation and Compensation Act</i>	<i>Personal Injuries (Liabilities and Damages) Act</i> (“PI (L & D) A Part 4 Divisions 3 and 4. Damages based on permanent impairment percentage scaled pursuant to sections 24-28 <i>PI (L & D) A</i>	
	Interest on general damages	<i>Not available</i>		No interest on damages for non-pecuniary loss or gratuitous services: section 29 <i>PI (L & D) A</i>	
	Out of pocket expenses	<i>Not available</i>		Calculated by reference to actual loss	
	Interest on out of pocket expenses	<i>Not available</i>		Interest recoverable on net amount the claimant has expended	
	Statutory Refunds	<i>Not available</i>		Medicare, Centrelink, <i>Workers Rehabilitation and Compensation Act</i> payments, DEEWR (CRS/VRS)	
	Past Economic Loss	<i>Not available</i>		Common law but earnings greater than 3 times average weekly earnings disregarded: section 20 <i>PI (L & D) A</i>	
	Past loss of superannuation	<i>Not available</i>		9% of past economic loss	
	Interest on past economic loss	<i>Not available</i>		Common law: see section 30 <i>PI (L & D) A</i>	
	Future economic loss	<i>Not available</i>		Common law but earnings greater than 3 times average weekly earnings disregarded: section 20 <i>PI (L & D) A</i>	
	Future loss of superannuation	<i>Not available</i>		9% of future economic loss	
	Past care	<i>Not available</i>		<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months which are reasonable and due to the injury; not to exceed average weekly earnings if provided for more than 40 hours per week or not to exceed 1/40 of average weekly earnings for an hourly rate: section 23 <i>PI (L & D) A</i> <u>Paid Care</u> Common law applies	

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
	Interest on past care	<i>Not available</i>		<u>Gratuitous Care</u> Excluded by section 29(1)(b) <i>PI (L & D)</i> A <u>Paid Care</u> Common law applies	
NT	Future care	<i>Not available</i>		<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months which are reasonable and due to the injury; not to exceed average weekly earnings if provided for more than 40 hours per week or not to exceed 1/40 of average weekly earnings for an hourly rate: section 23 <i>PI (L & D)</i> A <u>Paid Care</u> Common law applies	
	Future expenses	<i>Not available</i>		Common law applies	
	Fox v Wood	<i>Not available</i>		Only applicable where there is a refund pursuant to section 176 <i>Workers Rehabilitation and Compensation Act</i>	

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
QLD	General Damages	<i>Civil Liability Act 2003 (Qld)</i> (“CLA”) Chapter 3; <i>Civil Liability Regulations 2003 (Qld)</i> (“CLR”) Schedule 3 & 4 Injuries are assigned an Injury Scale Value (ISV) with each ISV having an assigned monetary value.	Common Law applies.	<i>Civil Liability Act 2003 (Qld)</i> (“CLA”) Chapter 3; <i>Civil Liability Regulations 2003 (Qld)</i> (“CLR”) Schedule 3 & 4 Injuries are assigned an Injury Scale Value (ISV) with each ISV having an assigned monetary value.	<i>Civil Liability Act 2003 (Qld)</i> (“CLA”) Chapter 3; <i>Civil Liability Regulations 2003 (Qld)</i> (“CLR”) Schedule 3 & 4 Injuries are assigned an Injury Scale Value (ISV) with each ISV having an assigned monetary value.
	Interest on general damages	No interest on general damages. <i>See CLA s60(1)</i>	Interest allowed on general damages (generally 2%).	No interest on general damages. <i>See CLA s60(1)</i>	No interest on general damages. <i>See CLA s60(1)</i>

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
QLD	Out of pocket expenses	Calculated by reference to actual loss and generally includes any relevant refund amounts.	Calculated by reference to actual loss and generally includes any relevant refund amounts.	Calculated by reference to actual loss and generally includes any relevant refund amounts.	Calculated by reference to actual loss and generally includes any relevant refund amounts.
	Interest on out of pocket expenses	Interest recoverable on the net amount the claimant has expended i.e. net of refunds. <i>CLA s60(2), (3)</i>	Interest recoverable on the net amount the claimant has expended i.e. net of refunds. <i>CLA s60(2), (3)</i>	Interest recoverable on the net amount the claimant has expended i.e. net of refunds.	Interest recoverable on the net amount the claimant has expended i.e. net of refunds. <i>CLA s60(2), (3)</i>
	Statutory Refunds	Medicare, Centrelink, Workers Comp, DEEWR (CRS/VRS), DSQ	Medicare, Centrelink, Workers Comp, DEEWR (CRS/VRS), DSQ	Medicare, Centrelink, Workers Comp, DEEWR (CRS/VRS), DSQ, Public Hospital	Medicare, Centrelink, Workers Comp, DEEWR (CRS/VRS), DSQ
	Past Economic Loss	Calculated by reference to specific weekly (periodic) loss. Global award may be made if a specific calculation cannot be made. <i>CLA s55(2)</i> .	Calculated by reference to specific weekly (periodic) loss. Global award may be made if a specific calculation cannot be made. Common Law applies.	Calculated by reference to specific weekly (periodic) loss. Global awards may be made if specific calculation cannot be made. <i>CLA s55(2)</i> .	Calculated by reference to specific weekly (periodic) loss. Global awards may be made if specific calculation cannot be made. <i>CLA s55(2)</i> .
	Past loss of superannuation	9% of Past Economic Loss. <i>CLA s56</i>	9% of Past Economic Loss.	9% of Past Economic Loss. <i>CLA s56</i>	9% of Past Economic Loss. <i>CLA s56</i>
	Interest on past economic loss	Interest recoverable on the net loss i.e. less refunds. <i>CLA s60(2), (3)</i>	Interest recoverable on the net loss i.e. less refunds.	Interest recoverable on the net loss i.e. less refunds. <i>CLA c60(2), (3)</i>	Interest recoverable on the net loss i.e. less refunds. <i>CLA c60(2), (3)</i>
	Future economic loss	If an appropriate calculation cannot be made by reference to a specific weekly loss, the court can make a global award. <i>CLA s55</i> . <i>Also see s54</i> .	Common Law applies	If an appropriate calculation cannot be made by reference to a specific weekly loss, the court can make a global award. <i>CLA s55</i> ; <i>Also see s54</i> .	If an appropriate calculation cannot be made by reference to a specific weekly loss, the court can make a global award. <i>CLA s55</i> ; <i>Also see s54</i> .
	Future loss of superannuation	9% of Future Economic Loss. <i>CLA s56</i>	9% of Past Economic Loss.	9% of Future Economic Loss. <i>CLA s56</i>	9% of Future Economic Loss. <i>CLA s56</i>
	Past care	<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months. The services must be reasonable and due to the injury. <i>See CLA s59</i>	No award for gratuitous care. Paid care only claimable if it wasn't required prior to injury, and has been paid for	<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months. The services must be reasonable and due to the	<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months. The services must be reasonable and due to the injury.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
			since. <i>See Workers Compensation and Rehabilitation Act 2003 ("WCRA"), Chap5, Pt10.</i>	injury. <i>See CLA s59</i>	<i>See CLA s59</i>
QLD	Interest on past care	Interest recoverable on the net amount the claimant has expended i.e. net of refunds. <i>CLA s60(2), (3)</i>	Interest recoverable.	Interest recoverable on the net amount the claimant has expended i.e. net of refunds. <i>CLA s60(2), (3)</i>	Interest recoverable on the net amount the claimant has expended i.e. net of refunds. <i>CLA s60(2), (3)</i>
	Future care	<u>Gratuitous Care</u> Only if relevant threshold met. <i>Again see CLA s59.</i> <u>Paid Care</u> Common law applies.	No awards for gratuitous care. Only limited scope for awards of future paid care i.e. if no care prior to injury and if there has been paid care since. <i>See WCRA, Chap 5, Pt 10.</i>	<u>Gratuitous Care</u> Only if relevant threshold met. <i>Again see CLA s59.</i> <u>Paid Care</u> Common law applies.	<u>Gratuitous Care</u> Only if relevant threshold met. <i>Again see CLA s59.</i> <u>Paid Care</u> Common law applies.
	Future expenses	Common law	Common law	Common law	Common law
	Fox v Wood	Only applicable in situation where there is a workers compensation refund.	Applicable.	Only applicable in situation where there is a workers compensation refund.	Applicable.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
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		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
SA	General Damages	<i>Civil Liability Act 1936 (SA) ("CLA") Chapter 8 – Damages for Personal Injury section 52;</i> Damages assessed if injured person ability to live a normal life was significantly impaired for at least 7 days (<i>s51</i>). Assessed on a scale of 0-60 with each numerical value having an assigned monetary value (<i>s52 (2)</i>)	Common Law does not apply, except in circumstances where a negligent third party causes the injury. See Section 54 Workers Rehabilitation and Compensation Act 1986 (SA) ("WRCA") for prohibition, then see Public Liability, Motor Vehicle or Medical Negligence as appropriate. Also recovery by WorkCover Corporation in those matters of all monies paid under WorkCover Claim, see S54(7) WRCA.	Civil Liability Act 1936 (SA) ("CLA"), Section 52: Damages may only be awarded if the injured person's ability to lead a normal life was significantly impaired for at least 7 days; or Medical expenses of at least the prescribed minimum have been reasonably incurred in connection with the injury. Assessed on a scale of 0-60 with each numerical value having an assigned monetary value – Section 52(2).	Civil Liability Act 1936 (SA) ("CLA"), Section 52: Damages may only be awarded if the injured person's ability to lead a normal life was significantly impaired for at least 7 days; or Medical expenses of at least the prescribed minimum have been reasonably incurred in connection with the injury. Assessed on a scale of 0-60 with each numerical value having an assigned monetary value – Section 52(2).
SA	Interest on general damages	No interest on general damages. <i>CLA s56</i>		not allowed Section 56 CLA.	not allowed Section 56 CLA.
	Out of pocket expenses	Calculated by reference to reasonable actual expenses.		calculated by reference to reasonable actual expenses	calculated by reference to reasonable actual expenses
	Interest on out of pocket expenses	not permitted.		not permitted.	not permitted.
	Statutory Refunds	Medicare, Centrelink, Workers Comp, DEEWR (CRS)		Medicare, Centrelink, Workers Comp, DEEWR (CRS/VRS), DSQ, Public Hospital	Medicare, Centrelink, Workers Comp, DEEWR (CRS/VRS), DSQ, Public Hospital
	Past Economic Loss	Calculated by reference to specific weekly (periodic) loss. Damages not to be awarded for first week on incapacity. <i>CLA s 54(3)</i>		Calculated by reference to specific weekly (periodic) loss. Damages not to be awarded for first week of incapacity – CLA Section 54(1).	Calculated by reference to specific weekly (periodic) loss. Damages not to be awarded for first week of incapacity – CLA Section 54(1).

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
	Past loss of superannuation	9% of Past Gross Economic Loss.		9% of past gross economic loss	9% of past gross economic loss
	Interest on past economic loss	Interest recoverable on the net loss.		interest recoverable on half the net loss.	interest recoverable on half the net loss.
	Future economic loss	An actuarial multiplier, with a prescribed discount rate applied, can be used to calculate the present value of the future losses. <i>CLA s55</i> .		an actuarial multiplier is used for the purpose of calculating the present value of the future losses. A net weekly loss figure is used – <i>CLA Section 55</i> .	an actuarial multiplier is used for the purpose of calculating the present value of the future losses. A net weekly loss figure is used – <i>CLA Section 55</i> .
	Future loss of superannuation	11% of Future Economic Loss.		11% of future economic loss	11% of future economic loss
	Past care	<u>Gratuitous Care</u> Damages only to be awarded for services provided by parent, spouse or child <i>CLA s58(1)</i> and not to exceed 4 times State average weekly earnings <i>CLA s 58 (2)</i> . Court may award in excess of prescribed limit if the services are reasonably required and would be necessary to pay for services if not gratuitously provided. <i>CLA s58 (3)</i>		Damages are only to be awarded where the services are provided by parent, spouse, domestic partner or child of the insured person or to allow for the reimbursement of expenses, other than reasonable out of pocket expenses, voluntarily incurred or to be voluntarily incurred by a person rendering gratuitous services to the injured person – <i>CLA Section 58</i> . Limits/Caps placed on amount payable pursuant to Sections 58(2) and (3).	Damages are only to be awarded where the services are provided by parent, spouse, domestic partner or child of the insured person or to allow for the reimbursement of expenses, other than reasonable out of pocket expenses, voluntarily incurred or to be voluntarily incurred by a person rendering gratuitous services to the injured person – <i>CLA Section 58</i> . Limits/Caps placed on amount payable pursuant to Sections 58(2) and (3).
SA	Interest on past care	Interest recoverable		– interest recoverable	– interest recoverable

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
	Future care	An injured person can be compensated for future losses. An actuarial multiplier, applying a prescribed discount rate can be used to calculate future losses. <i>CLA s54</i>		the injured person can be compensated by way of lump sum for future losses. An actuarial multiplier is used for the purpose of calculating the present value of the future losses, applying the prescribed discount rate – CLA Section 55.	the injured person can be compensated by way of lump sum for future losses. An actuarial multiplier is used for the purpose of calculating the present value of the future losses, applying the prescribed discount rate – CLA Section 55.
SA	Future expenses	Common law		Common law	Common law
	Fox v Wood	Applicable where there is a workers compensation refund.		Applicable where there is a workers compensation refund.	Applicable where there is a workers compensation refund.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
TAS	General Damages	<i>Civil Liability Act 2002 (Tas) (“CLA”) Section 27 Applies;</i> General Damages subject to an indexed threshold (currently \$4,611.46 to \$23,057.32) such that Damages of up to the threshold result in nil award and then sliding scale up to upper limit. No restriction over the upper limit.	Common Law applies.	<i>Civil Liability Act 2002 (Tas) (“CLA”) Section 27 Applies;</i> General Damages subject to an indexed threshold (currently \$4,611.46 to \$23,057.32) such that Damages of up to the threshold result in nil award and then sliding scale up to upper limit. No restriction over the upper limit.	<i>Civil Liability Act 2002 (Tas) (“CLA”) Section 27 Applies;</i> General Damages subject to an indexed threshold (currently \$4,611.46 to \$23,057.32) such that Damages of up to the threshold result in nil award and then sliding scale up to upper limit. No restriction over the upper limit.
	Interest on general damages	No interest on damages pre judgment date	No interest on damages pre judgment date	No interest on damages pre judgment date	No interest on damages pre judgment date

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
	Out of pocket expenses	Calculated by reference to actual loss. Any scheduled benefit paid pursuant to Motor Accidents (Compensation and Liability) Act 1973 (Tas) (MACLA) is regarded as payment in part of the damages see sect 27(1) MACLA	Calculated by reference to actual loss. Any scheduled benefit paid pursuant to Workers Rehabilitation and Compensation Act 1988 (Tas) (WRCA) is regarded as payment in part of the damages see sect 133(1) WRCA	Calculated by reference to actual loss and generally includes any relevant refund amounts.	Calculated by reference to actual loss and generally includes any relevant refund amounts.
TAS	Interest on out of pocket expenses	No interest on damages pre judgment date	No interest on damages pre judgment date	No interest on damages pre judgment date	No interest on damages pre judgment date
	Statutory Refunds	Medicare, Centrelink, DEEWR (CRS/VRS). Any scheduled benefit paid pursuant to Motor Accidents (Compensation and Liability) Act 1973 (Tas) (MACLA) is regarded as payment in part of the damages see sect 27(1) MACLA	Medicare, Centrelink, DEEWR (CRS/VRS). Any scheduled benefit paid pursuant to Workers Rehabilitation and Compensation Act 1988 (Tas) (WRCA) is regarded as payment in part of the damages see sect 133(1) WRCA	Medicare, Centrelink, DEEWR (CRS/VRS).	Medicare, Centrelink, DEEWR (CRS/VRS).
	Past Economic Loss	Calculated by reference to specific weekly (periodic) loss, subject to an upper limit of 3 times the adult average weekly earnings. See Sec 26 CLA. Global award may be made if a specific calculation cannot be made.	Common Law applies.	Calculated by reference to specific weekly (periodic) loss, subject to an upper limit of 3 times the adult average weekly earnings. See Sec 26 CLA. Global award may be made if a specific calculation cannot be made.	Calculated by reference to specific weekly (periodic) loss, subject to an upper limit of 3 times the adult average weekly earnings. See Sec 26 CLA. Global award may be made if a specific calculation cannot be made.
	Past loss of superannuation	9% of Past Economic Loss. <i>CLA s25</i>	Common Law Applies	9% of Past Economic Loss. <i>CLA s25</i>	9% of Past Economic Loss. <i>CLA s25</i>
	Interest on past economic loss	No interest on damages pre judgment date	No interest on damages pre judgment date.	No interest on damages pre judgment date	No interest on damages pre judgment date

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
	Future economic loss	Common Law applies subject to an upper limit of 3 times the adult average weekly earnings. See Sec 26 CLA. Global award may be made if a specific calculation cannot be made. 5 % discount rate applies.	Common Law applies.	Common Law applies subject to an upper limit of 3 times the adult average weekly earnings. See Sec 26 CLA. Global award may be made if a specific calculation cannot be made. 5% discount rate applies.	Common Law applies subject to an upper limit of 3 times the adult average weekly earnings. See Sec 26 CLA. Global award may be made if a specific calculation cannot be made. 5% discount rate applies.
TAS	Future loss of superannuation	9% of Past Economic Loss. <i>CLA s25</i>	Common Law Applies	9% of Past Economic Loss. <i>CLA s25</i>	9% of Past Economic Loss. <i>CLA s25</i>
	Past care	<u>Gratuitous Care</u> No award for Gratuitous Care_CLA s28C <u>Paid Care</u> Common Law applies. Any scheduled benefit paid pursuant to Motor Accidents (Compensation and Liability) Act 1973 (Tas) (MACLA) is regarded as payment in part of the damages see sect 27(1) MACLA	Common Law Applies. Any scheduled benefit paid pursuant to Workers Rehabilitation and Compensation Act 1988 (Tas) (WRCA) is regarded as payment in part of the damages see sect 133(1) WRCA	<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months. The rate must not exceed adult average weekly earnings. <i>See CLA s28B.</i>	<u>Gratuitous Care</u> Must meet a threshold of 6 hours of care per week for a minimum of 6 months. The rate must not exceed adult average weekly earnings. <i>See CLA s28B.</i>
	Interest on past care	No interest on damages pre judgment date	No interest on damages pre judgment date	No interest on damages pre judgment date	No interest on damages pre judgment date
	Future care	<u>Gratuitous Care</u> No award for Gratuitous Care_CLA s28C <u>Paid Care</u> Common law applies. 5% discount rate applies.	Common Law Applies.	<u>Gratuitous Care</u> Only if relevant threshold met. <i>Again see CLA s28B</i> <u>Paid Care</u> Common law applies. 5% discount rate applies.	<u>Gratuitous Care</u> Only if relevant threshold met. <i>Again see CLA s28B</i> <u>Paid Care</u> Common law applies. 5% discount rate applies.
	Future expenses	Common law. 5% discount rate	Common law.	Common law. 5% discount rate.	Common Law. 5 % discount rate.
	Fox v Wood	Applicable.	Applicable.	Applicable.	Applicable.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
VIC	General Damages	<p><i>Transport Accident Act</i> (“TAA”) applies.</p> <p>Common law claim only if “serious injury” is established or if whole person impairment is 30% or more (under 4th edition AMA Guides).</p> <p>Minimum threshold for Pain and Suffering damages is \$43,650.00.*</p> <p>Minimum threshold for Pecuniary Loss damages is \$43,650.00.*</p> <p>Maximum for Pain and Suffering damages is \$436,680.00.*</p> <p>Maximum for Pecuniary Loss damages is \$982,560.00.*</p>	<p><i>Accident Compensation Act</i> (“ACA”) applies.</p> <p>No common law claim unless “serious injury” or a whole person impairment of 30% or more is established (under 4th edition AMA Guides).</p> <p>Minimum threshold for Pain and Suffering damages is \$47,770.00*.</p> <p>Minimum threshold for Pecuniary Loss damages is \$49,460.00.*</p> <p>Maximum for Pain and Suffering damages is \$484,830.00.*</p> <p>Maximum for Pecuniary Loss damages is \$1,113,590.00.*</p>	<p>Common law entitlement only if significant injury.</p> <p>Non-economic loss damages only if whole person physical impairment exceeds 5% or whole person psychiatric impairment exceeds 10% (under 4th edition AMA Guides).</p> <p>Maximum award for non-economic loss is approximately \$383,500.00.*</p>	<p>Common law entitlement only if significant injury.</p> <p>Non-economic loss damages only if whole person physical impairment exceeds 5% or whole person psychiatric impairment exceeds 10% (under 4th edition AMA Guides)..</p> <p>Maximum award for non-economic loss is approximately \$383,500.00.*</p>
	*indexed annually				
	Interest on General Damages	No.	No.	Yes.	Yes.
	Out of Pocket Expenses	<p>Hospital, medical and like expenses are paid as part of no-fault scheme – s. 60 of TAA.</p> <p>No claim for past or future such expenses is allowable as part of a common law claim.</p>	<p>Hospital, medical and like expenses are paid as part of no-fault scheme – s. 99 of <i>Accident Compensation Act</i> (“ACA”)</p> <p>No, claim for such expenses</p>	Yes.	Yes.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
			unless they fall within the definition of Pecuniary Loss damages and are not payable on a no-fault basis, under s.99 of the ACA.		
	Interest on Out of Pocket Expenses	Not applicable.	Not applicable.	Yes.	Yes.
VIC	Statutory Refunds	No fault impairment lump sum and any no fault payments for Loss of Earning Capacity received from the 18 month anniversary, are deducted from any common law settlement or verdict.	No-fault lump sum impairment award and weekly (income) payments of compensation are deducted from any common law verdict or settlement.	Medicare, Centrelink as per Commonwealth legislation.	Medicare, Centrelink as per Commonwealth legislation.
	Past Economic Loss	Common law applies but no amount is recoverable in respect of loss of earnings incurred in the first 18 month post-accident period. Otherwise covered by no fault Loss of Earnings payments under the TAA.	Common law applies.	Court to disregard the amount by which the claimant's gross weekly earnings would have exceeded an amount that is three times the amount of average weekly earnings: s.28F of the <i>Wrongs Act</i> .	Court to disregard the amount by which the claimant's gross weekly earnings would have exceeded an amount that is three times the amount of average weekly earnings: s.28F of the <i>Wrongs Act</i> .
	Past Loss of Superannuation	Common law applies, only on lost earnings post-18 month accident period.	Common law applies.	Yes.	Yes.
	Interest on Past Economic Loss	Yes. Interest recoverable on nett loss of earnings in the post-18 month accident period from date of issue of Writ until judgment.	Interest recoverable on nett loss from date of issue of Writ until judgment.	Yes, between the date of issue of Writ and judgment.	Yes, between the date of issue of Writ and judgment.
	Future Economic Loss	Common law applies. 6% discount rate applicable.	Common law applies. 6% discount rate applicable.	Court is to disregard the amount, if any, by which the claimant's gross weekly earnings would,	Court is to disregard the amount, if any, by which the claimant's gross weekly earnings would, but for the

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
				but for the injury, have exceeded an amount that is three times the amount of average weekly earnings: s.28F <i>Wrongs Act</i> . 5% discount rate applicable.	injury, have exceeded an amount that is three times the amount of average weekly earnings: s.28F <i>Wrongs Act</i> . 5% discount rate applicable.
VIC	Future Loss of Superannuation	Common law applies.	Common law applies.	Common law applies.	Common law applies.
	Past Care	Not recoverable.	Not recoverable.	Gratuitous care must meet a threshold of six hours per week, more than six months. <i>Griffiths v Kerkemeyer</i> damages must not exceed average weekly earnings. If less than 40 hours per week, at hourly rate of one-fortieth of average weekly earnings.	Gratuitous care must meet a threshold of six hours per week, more than six months. <i>Griffiths v Kerkemeyer</i> damages must not exceed average weekly earnings. If less than 40 hours per week, at hourly rate of one-fortieth of average weekly earnings.
	Interest on Past Care	Not applicable.	Not applicable.	Recoverable.	Recoverable.
VIC	Future Care	Not recoverable.	Not applicable.	An injured person can be compensated by way of lump sum for future losses. 5% discount rate applicable.	An injured person can be compensated by way of lump sum for future losses. 5% discount rate applicable.
	Future Expenses	No	Not unless they fall within the definition of Pecuniary Loss damages.	Common law applies. 5% discount rate applicable.	Common law applies. 5% discount rate applicable.
	<i>Fox v Wood</i>	Common law applies.	Common law applies.	Not applicable.	Not applicable.
	Costs	As per Court Scale of Costs.	If judgment less than Defendant's statutory offer, Plaintiff pays Defendant's costs.	As per Court Scale of Costs.	As per Court Scale of Costs.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
			<p>If verdict more than 90% of Plaintiff's statutory counteroffer, Defendant pays Plaintiff's costs, at 80% of Scale.</p> <p>If verdict more than Defendant's statutory offer but less than 90% of Plaintiff's statutory counteroffer, no order as to costs.</p>		

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
WA	General Damages	<i>Motor Vehicle (Third Party Insurance) Act 1943:</i> Injuries are assessed according to a percentage of a most extreme case. Most extreme case (100%) is currently \$309,000. Also a minimum threshold/deductible of \$15,500. Injuries less than 5% of most extreme case attract no general damages award.	Common law applies provided the plaintiff has at least a 15% impairment. However, total damages are capped at current maximum of \$353,850 less compensation paid to date of judgment or settlement if impairment level is below 25% of whole person and damages are to be a proportion of that maximum determined according to the severity of the injuries. Maximum damages may only be awarded in a most extreme case in which the worker's degree of WPI impairment is less than 25%.	<i>Civil Liability Act 2002</i> ss10(3), 13(3); Minimal threshold of \$15,500, deductible decreasing on injuries assessed over \$47,000. No maximum mentioned.	As per public liability.
	Interest on General Damages	Payable on General Damages that are attributable to the past. Court will ordinarily undertake a division	As per motor vehicle.	As per motor vehicle.	As per motor vehicle.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
		between past and future general damages and apply interest at the rate fixed by the Supreme Court Act 1935, currently 6% p.a. Amounts received by way of lump sum Worker's Compensation payments are to be deducted before the calculation of interest.			
WA	Out of Pocket Expenses (Special Damages)	Calculated by proof of purchase documentation – actual loss. Travel in private car calculated by per km or a global sum.	Calculated by reference to actual loss and general includes any relevant refund amounts.	Calculated by proof of purchase documentation – actual loss. Travel in private car calculated by per km or a global sum.	As per public liability.
	Interest on Out of Pocket Expenses	Payable at the statutory rate applicable according to the Supreme Court Act 1935. Currently at 6% p.a.	As per motor vehicle.	As per motor vehicle.	As per motor vehicle.
	Statutory Refunds	Medicare, Centrelink, Worker's Compensation, DEEWR, CRS and VRS.	As per motor vehicle.	As per motor vehicle.	As per motor vehicle.
	Past Economic Loss	Calculated by reference to specific periodic wages. If inconsistent earnings, then average used from previous pay slips, tax returns and notices assessment. The court is to disregard earnings lost to the extent that they would have accrued at a rate of more than three times the average weekly earnings at the date of the award (s11 Civil Liability Act 2002).	Calculated by reference to specific periodic wages. If inconsistent earnings then average used previous pay slips / tax return. Common law applies, subject to restrictions referred to above where an impairment level is less than 25% of the whole person.	As per motor vehicle.	As per public liability.
	Past Superannuation	9% of gross past economic loss less 15% for administration costs (Jongen v CSR).	As per motor vehicle.	As per motor vehicle.	As per motor vehicle.
	Interest on past economic loss	Recoverable on net losses at fixed rate by the Supreme Court Act 1935.	As per motor vehicle.	As per motor vehicle.	As per motor vehicle.
	Future economic loss	Appropriate calculation made by reference to specific weekly loss. Any loss is disregarded to the extent that it would exceed three times the average weekly earnings of full time adult employees in WA. 6% table of multipliers applies. Normally a reduction of 10-15% for vicissitudes of	Common law applies subject to restrictions referred to above where the impairment level is less than 25% of the whole person. 6% table of multipliers applies and normally a reduction of 10-	As per motor vehicle.	As per motor vehicle.

		Motor Vehicle	WorkCover	Public Liability	Medical Negligence
		life.	15% for vicissitudes of life.		
	Gratuitous Services: Past and Future	Damages are only payable for gratuitous services of a domestic nature or gratuitous services relating to nursing and attendance that have been, or are to be, provided to the person whose favour the award is sought by a member of the same household or family as the person. No damages are to be awarded for the services if they would have been or would be, provided even if the person had not suffered personal injury. If 40 hours per week or more then damages are not to exceed average weekly total earnings for all WA employees for relevant quarter as published by ABS. If services are less than 40 hours per week then calculate hourly rate by dividing weekly rate by 40. Threshold – if calculated at less than \$5,500 then no damages awarded. No Sullivan v Gordon damages are payable. i.e. no damages for any loss of the claimant's capacity to provide gratuitous domestic services to the claimant's dependent.	Common law applies. Can recover reasonable costs of meeting nursing, domestic, and other needs created as a consequence of the negligence of the defendant including services provide gratuitously. Hourly rate for the cost service general calculated at commercial rates, although administration costs of providing the service might be deducted. No Sullivan v Gordon damages payable.	As per motor vehicle.	As per motor vehicle.
WA	Interest on past gratuitous services	Interest is payable on past gratuitous care at the same rate as special damages.	As per motor vehicle.	As per motor vehicle.	As per motor vehicle.
	Fox v Wood	Only applicable in situation where there is a worker's compensation refund.	Applicable. That is, tax withheld on weekly benefits is claimable as damages.	As per motor vehicle.	As per motor vehicle.