

Report on Section 2 of the Civil Liability (Amendment) Act, 1964: The Deductibility of Collateral Benefits from Awards of Damages

This report [LRC 68-2002 Report on Section 2 of the Civil Liability Act, 1964: The Deductibility of Collateral Benefits from Awards of Damages](#) responds to a request by the then Attorney General to consider whether and to what extent section 2 of the Civil Liability (Amendment) Act, 1964 should be amended to ensure a person who claims damages for personal injuries does not receive double compensation.

Section 2 deals with the interaction between payments that a victim of personal injuries may receive, such as insurance payments, pension payments, gratuities and other such payments (so-called "collateral benefits"), on the one hand, and damages awarded by a court in respect of the same injuries, on the other hand. That section provides that the collateral benefits shall not be taken into account in assessing the award of damages. As a result, victims of personal injuries may receive compensation from two sources in respect of the same loss.

The concern at the heart of this Report is that the victim of personal injuries should receive whatever monetary payments are necessary to compensate him or her for the loss suffered, but not more. At its core, this Report aims to reduce over-compensation of victims of personal injuries. Following a wide consultation process, including members of the legal profession, the insurance industry, the pensions industry and the Department of Social and Family Affairs, the Law Reform Commission now makes its final recommendations as to the changes that should be made to section 2 to ensure a victim of personal injuries receives adequate and full compensation for those injuries, but not double compensation.

Each chapter of this Report analyses individually the various categories of collateral benefit to assess whether they are duplicative of an award of damages and whether they should be deducted. The Commission considers the policies underlying each type of benefit as well as any practical questions that may arise from its recommendations.

The Report begins with an examination of insurance payments and concludes that insurance payments should be deducted from awards of damages for personal injury, unless the insurance premiums were paid out of an individual's own pocket. As regards charitable payments, it is important not to discourage benevolence and the Report therefore recommends that such payments should generally not be deducted from awards of damages. Pension payments attract different policy considerations, as beneficiaries have a direct proprietary interest in the fund from which such payments are made. The Commission accordingly recommends that pension payments should continue not to be deducted from awards of damages.

The Report recommends that sick pay should be taken into account in assessing damages, as sick pay compensates for the same loss as damages for loss of earnings. As regards social welfare payments, the Commission's recommendation is that they should be deducted from the appropriate head of an award of damages.

Throughout this Report, the Law Reform Commission balances the public interest in ensuring that a person does not receive double compensation in respect of personal injuries suffered, with the rights of that person to receive payments to which he or she is justly entitled.