

Head of Damage	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	
Relevant Act/s	<i>Civil Law (Wrongs) Act 2002</i>	<i>Civil Liability Act 2002</i> <i>Repealed by Legal Profession Uniform Law Application Act 2014</i>	<i>Personal Injuries (Liability and Damages) Act 2002</i>	<i>Civil Liability Act 2003,</i> <i>Civil Liability Regulation 2014</i> <i>Personal Injuries Proceedings Act 2002</i>	<i>Civil Liability Act 1936</i>		<i>Civil Liability Act 2002</i>	<i>Wrongs Act 1958</i>	<i>Civil Liability Act 2002</i>
Commencement of Act	1/11/2002	CLA - 20/3/2002	1/5/2003	CLA – 9/4/2003 or 2/12/2002 PIPA – 2/12/2002	1/5/2004	1/1/2003	23/10/2002	1/1/2003	

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Cap on Impairment for General Damages	No cap – court is guided by earlier decisions	For injuries between 1/10/16 and 30/09/17 – \$605000	For injuries between 1/10/2016 and 30/09/17 – \$625500.	For injuries between 1/07/15 and 30/06/17 – \$358500	For injuries between 1/07/17 and 30/06/18 – \$367300	Indexed annually in accordance with s 52 formula: $\$241,500 \times \frac{\text{September CPI of previous calendar year}}{\text{September CPI 2002}}$ For injuries in 2016 calendar year – \$339,430 For injuries in 2017 calendar year – \$343,550 For injuries in 2018 calendar year – \$349,890 For injuries in 2019 calendar year – \$356,230 For injuries in 2020 calendar year – \$362,290	No cap – court is guided by earlier decisions	No cap
		For injuries between 1/10/17 and 30/09/18 – \$612500	For injuries between 1/10/17 and 30/09/18 – \$660000.	For injuries between 1/07/17 and 30/06/18 – \$367300				
		For injuries between 1/10/18 and 30/09/19 – \$635000	For injuries between 1/10/18 and 30/09/19 – \$664000	For injuries between 1/07/18 and 30/06/19 – \$378550				
		For injuries after 1/10/19 – \$658,000	For injuries after 1/10/19 – \$662,000	For injuries between 01/07/19 and 30 June 2020 – \$389900				
				For injuries after 1/07/2020 – \$398,700				

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Threshold of General Damages	No	The severity of the loss must be at least 15% of the most extreme case	No award unless the whole person impairment is more than 5%	No minimum	Injured party's ability to lead a normal life was significantly impaired for 7 days or medical expenses exceed the prescribed minimum.	No award if damages are assessed at < \$6,000. Where assessment is \$6,000 to \$30,000 – award is calculated: Award = 1.25 x (amount assessed minus \$6,000). Where assessment is >\$30,000, award is equal to that amount.	The plaintiff must have suffered a significant injury (5% permanent impairment or 10% if psychiatric)	No award if damages are assessed at < \$22,000. Where assessment is \$22,001 to \$64,500, award is calculated as: Assessment – \$22,000 = award. Where assessment is \$64,500 to \$86,500, award is calculated as: assessment – ((\$22,000 – (award – \$64,500))).

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Cap on Past Economic Loss	Award is limited to 3 x average weekly earnings	Award is limited to 3 x average weekly earnings	Award is limited to 3 x average weekly earnings	Award is limited to 3 x average weekly earnings	For injuries after 2002 award capped at \$2.2 million with increases in accordance with CPI proportion above. E.g. for 2020, cap is \$3,292,866	Award is limited to 3 x average weekly earnings	Award is limited to 3 x average weekly earnings	Award is limited to 3 x average weekly earnings
Cap on Future Economic Loss	3 x average weekly earnings	3 x average weekly earnings at the date of the award.	3 x average weekly earnings at the date of the award.	3 x average weekly earnings	No award for 1 st week of incapacity and total award cannot exceed prescribed maximum (ss 3, 54)	3 x average weekly earnings	3 x average weekly earnings	3 x average weekly earnings
Discount Rate	None	5%	5%	5%	5%	5%	5%	6%
Cap on Gratuitous Services	No	An amount equal to Average Weekly Earnings	An amount equal to Average Weekly Earnings	No	4 x State average weekly earnings, or more if the injured person has to engage a carer	A weekly amount that does not exceed adult average weekly earnings	A weekly amount that does not exceed adult average weekly earnings	A weekly amount that does not exceed adult average weekly earnings
Threshold on Gratuitous Services	No	At least 6 hrs a week and for at least 6 months	At least 6 hrs a week and for at least 6 months	At least 6 hrs a week and for at least 6 months	No	At least 6 hrs a week and for at least 6 months	At least 6 hrs a week and for at least 6 months	\$7000

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Minimum reduction for contributory negligence - Intoxication	No minimum	Reduction of damages of at least 25%	Reduction of damages of at least 25%	Reduction of damages of at least 25%	Reduction of damages of at least 25%	Reduction of damages of at least 25%	No minimum reduction	No minimum reduction
Legal Costs								
Threshold	No	No	None	For injuries after 1 July 2020 Nil costs for damages less than \$47,850	None	None	None	None

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Cap	For damages of less than \$50000, 20% of the amount recovered or \$10000.	For damages of less than \$100000, 20% of the amount recovered or \$10000. For a District Court trial after a failed arbitration, an additional 15% or \$7500.	None	Damages for an injury on/after 1/7/2020: From \$47,850 to \$79,790 - \$4,000. For injuries prior to this date, see <i>Personal Injuries Proceedings Regulation 2014</i> , s 12.	None	None	No cap, however practitioners are under a duty to ensure that costs are reasonable and proportionate to the complexity of the matter.	None

The material contained in this publication is in the nature of general comment only, and neither purports nor is intended, to be advice on any particular matter. No reader should act on the basis of any matter contained in this publication without considering and, if necessary, taking appropriate professional advice upon his or her own particular circumstances. Current to 30 June 2021.