

BODILY INJURY CLAIMS IN BELGIUM

⌘ **Basic principle : Liability**

⌘ **Exception :**

**From 01.01.1995 : road traffic accidents:
pedestrians and cyclists have always to be
compensated for their bodily injuries.**

⌘ **From 01.07.1995 : idem for motor vehicle
passengers.**

⌘ **From 03.03.2001: compensation of bodily
injuries + dress damages.**

BODILY INJURY CLAIMS IN BELGIUM

- ⌘ Date of Accident**
- ⌘ Date of consolidation of injuries**
- ⌘ Date of settlement**
- ⌘ Future inflation**
- ⌘ Legal Interest**
- ⌘ Future Jurisdiction**

VICTIM

⌘ Age

⌘ Civil State

⌘ Salary

⌘ Injuries

- temporary incapacity
- permanent incapacity
- third party aid (future care)

Clients

⌘ **Ceding Company**

⌘ **Claims reserving policy**

⌘ **Claims settlement policy**

Differences

⌘ Country

⌘ Differences by region

Reserving Bodily Injury Claims : Parameters

⌘ Temporary incapacity

– Material damage

- Workman with fixed income
 - worker (hourly wage x 40 x 48) +25%
fixed minimum : 10,00 EUR/hour
 - employee (monthly salary x 13,92)
fixed minimum : 1.750,00
EUR/month

Which income ? net@ 100% + 2%/year (unless evidence of social and tax charges).

Reserving Bodily Injury Claims : Parameters

- Self-employed person: fiscally declared income + 10%
fixed minimum : 25.000,00 EUR.
- Housewife/man
 - no children: 17,50 EUR/day
 - 1 child: 25,00 EUR/day
 - > 1 child: + 5,00 EUR/day for each supplementary child (as long as they are entitled to children's allowance)
 - split wife/man: 65% - 35%
- Pensioner
 - nothing except for household activities

Reserving Bodily Injury Claims : Parameters

- Unemployed persons 11.250,00 EUR/year
- Students
 - primary 375,00 EUR
 - secondary 1.000,00 EUR
 - high-school level at home 2.000,00 EUR
 - idem + student home 3.750,00 EUR

Reserving Bodily Injury Claims : Parameters

⌘ Temporary incapacity

– Moral damage

- hospitalization normal days 31,00 EUR/day
- days with high pain level 37,50 EUR/day
- no hospitalization 25,00 EUR/day
- students 3.750,00 EUR

Reserving Bodily Injury Claims : Parameters

⌘ Permanent Incapacity

– Material damage

- Ex aequo et bono: material and moral damage mixed for permanent incapacity degrees $\leq 15\%$.

- victim < 15 years old	2.000,00 EUR/point
- victim < 25 years old	1.875,00 EUR/point
- victim < 35 years old	1.750,00 EUR/point
- victim < 40 years old	1.625,00 EUR/point
- victim < 45 years old	1.500,00 EUR/point
- victim < 50 years old	1.375,00 EUR/point
- victim < 55 years old	1.250,00 EUR/point

Reserving Bodily Injury Claims: Parameters

- victim < 60 years old	1.125,00 EUR/point
- victim < 65 years old	875,00 EUR/point
- victim < 70 years old	750,00 EUR/point
- victim < 75 years old	625,00 EUR/point
- victim < 80 years old	500,00 EUR/point
- victim < 85 years old	375,00 EUR/point
- victim > 85 years old	250,00 EUR/point

Reserving Bodily Injury Claims : Parameters

- Capitalization
 - treshold 10% P.I.
 - income net@ 100% + 2%/year until date of consolidation (unless evidence of social and tax charges).
 - multiplier fixed annuity 3%
 - professional life expectancy
 - men : 65 years
 - women : 60 years => 65 years
 - self-employed persons : 70 years
 - housewife/man : physiological life expectancy
 - after retirement 2.000,00 EUR/year

Reserving Bodily Injury Claims : Parameters

– Moral damage (in capitalization cases)

- victim < 15 years old	1.000,00 EUR/point
- victim < 25 years old	937,50 EUR/point
- victim < 35 years old	875,00 EUR/point
- victim < 40 years old	812,50 EUR/point
- victim < 45 years old	750,00 EUR/point
- victim < 50 years old	687,50 EUR/point
- victim < 55 years old	625,00 EUR/point

Reserving Bodily Injury Claims: Parameters

- victim < 60 years old	562,50 EUR/point
- victim < 65 years old	437,50 EUR/point
- victim < 70 years old	375,00 EUR/point
- victim < 75 years old	312,50 EUR/point
- victim < 80 years old	250,00 EUR/point
- victim < 85 years old	187,50 EUR/point
- victim > 85 years old	125,00 EUR/point

Reserving Bodily Injury Claims : Parameters

- Aesthetic damage
250,00 EUR => 75.000,00 EUR
- Pretium voluptatis
sexual damage, impotency ...
case by case : average of 25.000,00 EUR
- Medical treatment costs
fixed amount : 25.000,00 EUR
+ 375,00 EUR/clinic day
+ 900,00 EUR/day of intensive care

Reserving Bodily Injury Claims : Parameters

- Third party aid (future care)
 - before consolidation
75,00 EUR/day ; 250,00 EUR/day in
specialized environment
 - after consolidation
12.500,00 EUR/year => 100.000,00 EUR/year
according to the needs
 - residence adaptation
fixed minimum : 25.000,00 EUR
case by case
 - moral damage of co-inhabitant family members
7.500,00 EUR => 12.500,00 EUR
case by case

Reserving Bodily Injury Claims : Parameters

⌘ Fatal injuries (cases of death)

- Material damage
 - Husband (or wife) and children
 - Earnings: net earnings @ 100%
 - Personal maintenance: formula:

Y

X + 1

Y = family income

X = number of family members before death

Reserving Bodily Injury Claims : Parameters

⌘ Fatal injuries (cases of death)

Which life expectancy ?

- Professional life expectancy of the deceased or physiological life expectancy of the person entitled if shorter than the professional life expectancy of the deceased
- Physiological life expectancy of the deceased regarding the household activities but limited to the life expectancy of the person entitled

Discount rate: 3%

- Concubine: idem

Reserving Bodily Injury Claims : Parameters

– Moral damage

- damage “ex haerede” 625,00 EUR => 2.500,00 EUR + moral damage during temporary incapacity.
- widow/widower 10.000,00 EUR
- co-habitant child 10.000,00 EUR
- child (no co-habitation) 5.000,00 EUR
- co-habitant father/mother 7.500,00 EUR
- father/mother (no co-habitation) 3.750,00 EUR
- co-habitant brother/sister 2.500,00 EUR
- brother/sister (no co-habitation) 1.500,00 EUR
- co-habitant grandparents 2.500,00 EUR each
- grandparents (no co-habitation) 1.250,00 EUR

Reserving Bodily Injury Claims: Parameters

- | | |
|---------------------------------|--------------|
| . co-habitant grandchild | 2.500,00 EUR |
| . grandchild (no co-habitation) | 1.250,00 EUR |

Reserving Bodily Injury Claims : Parameters

- Funeral expenses

4.000,00 EUR (= average) or real expenses minus anticipation (present value of x EUR payable within n years).

Application of the principle of anticipation: if the probable survival duration of the deceased is shorter than the probable survival duration of the claimant: the claimant had to bear the funeral expenses anyway.

Reserving Bodily Injury Claims : Parameters

Anticipation : this means the accelerated payment of the funeral expenses which ever had to be paid.

Basic principles :

- determination of the average physiological life expectancy of the victim at the date of the accident.
- calculation of the present value of the funeral expenses.
- indemnity = the difference between the real funeral expenses and the present value of these expenses.

Example : a 60 years old man dies in a road traffic accident.

Funeral expenses = 4.000,00 EUR.

Reserving Bodily Injury Claims : Parameters

- according to the mortality tables, the average physiological life expectancy of the victim is 20 years.
- calculation of the present value of the funeral expenses : in order to pay, within 20 years 1,00 EUR - given a discount rate of 2,5% - one has to have the disposal of a capital of 0,6103 EUR, i.e. $1/1,025^{20}$.
Result : 4.000,00 EUR x 0,6103 = 2.441,20 EUR.
- to indemnify : 4.000,00 EUR – 2.441,20 EUR = 1.558,80 EUR.

Reserving Bodily Injury Claims : Parameters

⌘ Additional costs

- | | |
|----------------------------------|---|
| – Lawyer, legal costs | 6% of the total reserve amount (interests excluded) |
| – Interests | |
| • cases of death and P.I. => 10% | 3 years at legal rate |
| • P.I. > 10% | 5 years at legal rate |
| • long legal proceedings | estimation of settlement date |

Reserving Bodily Injury Claims : Capitalization

Capitalization

Fixed annuity : the capital you need now in order to pay 1,00 EUR each year during a certain time; this capital is supposed to be invested and to produce each year a previously agreed interest.

Example : interest rate = 2,5% : fixed annuity during 5 years = 4,6458.

Reserving Bodily Injury Claims : Capitalization

Control :

Capital at the beginning of year 1		4,6458
Interest at the end of year 1	+	0,1161
Capital at the end of year 1		4,7619
Payment 1,00 EUR	-	1,0000
Capital at the beginning of year 2		3,7619
Interest at the end of year 2	+	0,0940
Capital at the end of year 2		3,8559
Payment 1,00 EUR	-	1,0000

Reserving Bodily Injury Claims : Capitalization

Capital at the beginning of year 3		2,8559
Interest at the end of year 3	+	0,0714
Capital at the end of year 3		2,9273
Payment 1,00 EUR	-	1,0000
Capital at the beginning of year 4		1,9273
Interest at the end of year 4	+	0,0482
Capital at the end of year 4		1,9755
Payment 1,00 EUR	-	1,0000

Reserving Bodily Injury Claims : Capitalization

Capital at the beginning of year 5		0,9755
Interest at the end of year 5	+	0,0245
Capital at the end of year 5		1,0000
Payment 1,00 EUR	-	1,0000
Capital at the end of year 5		0

Reserving Bodily Injury Claims : Capitalization

Calculation of the fixed annuity

1 st year : capital to invest :	$1/1,025$	=	0,9756
2 nd year : capital to invest :	$1/1,025^2$	=	0,9518
3 rd year : capital to invest :	$1/1,025^3$	=	0,9286
4 th year : capital to invest :	$1/1,025^4$	=	0,9060
5 th year : capital to invest :	$1/1,025^5$	=	0,8838

Annuity =			4,6458

Reserving Bodily Injury Claims: Example

⌘ Practical example

- accident 01 03 2002
- worker 30 years old, married, 1 child
- yearly salary 15.000,00 EUR net
- retirement age: 65 years
- date of consolidation: 01 03 2004
- date of settlement: 01 03 2006

Reserving Bodily Injury Claims: Example

- Result of the injuries:
 - 100% permanent disability
 - 100% future care (at home)
- Mortality tables: 2000
- Discount rate: 3%

Reserving Bodily Injury Claims: Example

⌘ Stay at hospital

- 30 days intensive care 27.000,00 EUR
- 60 days normal care 22.500,00 EUR

⌘ Medical treatment costs

- 62.000,00 EUR

Reserving Bodily Injury Claims: Example

⌘ Temporary incapacity

- loss of wages during 2 years: 30.300,00 EUR
- moral damage, stay at hospital: 2.985,00 EUR
- moral damage, days at home: 16.000,00 EUR
- period 01 03 2004 => 01 03 2006: 2 years with 2 x 2%
increase (inflation): 31.524,12 EUR
- moral damage for that period: 18.250,00 EUR
- value housekeeping activities: 9.125,00 EUR x 35% x 4
years: 12.775,00 EUR

Reserving Bodily Injury Claims: Example

⌘ Permanent incapacity

- loss of income during 31 years: EUR 16.236,48 x
20,0004 = 324.736,09 EUR
- moral damage: 125.000,00 EUR
- value housekeeping activities: 9.125,00 x 35% x 22,9494
= 73.294,65 EUR
- aesthetic damage: 12.500,00 EUR
- pretium voluptatis: 25.000,00 EUR

Reserving Bodily Injury Claims: Example

⌘ Permanent incapacity

– car adaptation:	12.500,00 EUR
– wheelchair:	18.500,00 EUR
– residence adaptation:	50.000,00 EUR
– past third party aid: 3,75 years: $24 \times 10,00 \text{ EUR} \times 365 \times 3,75 =$	328.500 EUR
– future care: $24 \times 10,00 \text{ EUR} \times 365 \times 22,9494$	
=	2.010.367,44 EUR
 Subtotal:	 <u>3.203.732,30 EUR</u>

Reserving Bodily Injury Claims: Example

⌘ Legal interests: 2 years on temporary incapacity, aesthetic damage, pretium voluptatis and aids:

25.246,78 EUR

⌘ Total Sum

3.228.979,08 EUR

⌘ Total Reserve including costs:

3.421.203,01 EUR

Reserving Bodily Injury Claims: Multipliers

⌘ Multipliers

– discount rate = 4%	
• fixed annuity:	17.5885
• lifelong (male):	19.4910
– discount rate = 3%	
• fixed annuity:	20,0004
• lifelong (male):	22.9494
– discount rate = 2,5%	
• fixed annuity:	21.3954
• lifelong (male):	25.0620

Reserving Bodily Injury Claims: Results

⌘ Total Reserve including costs

- discount rate = 4%: 3.046.851,43 EUR
- discount rate = 3%: 3.421.203,01 EUR
 - increase = **12,29%**
- discount rate = 2,5%: 3.648.531,43 EUR
 - increase = **19,75%**

Ratio 2,5% \Leftrightarrow 3%: increase = **6,64%**

Discount Rate: 4% => 2,5%: Cost for Reinsurer

⌘ Priority 500.000,00 EUR

- 4%: 2.546.851,43 EUR**
- 2,5%: 3.148.531,43 EUR**

Increase = 23,62% (⇔ 19,75% FGU)

Discount Rate: 4% => 2,5%: Cost for Reinsurer

⌘ Priority 1.000.000,00 EUR

- 4%: 2.046.851,43 EUR**
- 2,5%: 2.648.531,43 EUR**

Increase = 29,40% (⇔ 19,75% FGU)

Discount Rate: 4% => 2,5%: Cost for Reinsurer

⌘ Priority 2.000.000,00 EUR

- 4%: 1.046.851,43 EUR**
- 2,5%: 1.648.531,43 EUR**

Increase = 57,48% (⇔ 19,75% FGU)

Discount Rate: 4% => 2,5%: Cost for Reinsurer

⌘ Priority 2.500.000,00 EUR

- 4%: 546.851,43 EUR**
- 2,5%: 1.148.531,43 EUR**

Increase = 110,03% (\Leftrightarrow 19,75% FGU)