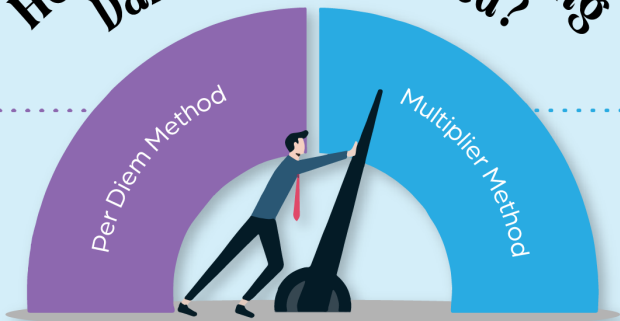


How Are Pain and Suffering Damages Determined?



Lawyers and insurance companies use either the **Per Diem Method** or **Multiplier Method** to calculate appropriate pain and suffering recovery.

The multiplier method is the more commonly used of the two.

Multiplier Method

- Add up all of the injured person's economic damages
- The insurance company and the plaintiff's lawyer negotiate a multiplier
- A multiplier between 1.5 and 5 is agreed upon
- A plaintiff's economic damages are multiplied by the multiplier to determine pain and suffering damages



How Are Multipliers Determined?

A variety of factors will influence the multiplier, including:

- The severity of the injury
- Length of recovery period
- Whether the injured person will ever make a full recovery
- How the injury affects the person's life
- Shared fault / comparative negligence

Multiplier Method Example:

1. Your economic damages **total \$100,000**
2. Your lawyer and the insurance company agree to a **multiplier of 3**
3. You settle your claim for **\$100,000 of "special damages"** (economic damages) + **\$300,000 of pain and suffering damages** (non-economic damages) for a **total of \$400,000**

Per Diem Method

The "daily rate" method – or per diem method – entails paying a plaintiff for each day they experienced pain and suffering due to the injuries caused by the defendant.

- The number of days is often based on the length of the plaintiff's recovery
- The rate is often based on the injured person's income
- How the days are determined may be subject to negotiations



Per Diem Method Example:

1. A person breaks their legs in a car accident and are stuck in casts for eight weeks, followed by three weeks of physical therapy and using crutches, for a total of 11 weeks of recovery
2. 1 weeks x 7 days = **77 day per diem period**
3. The injured person's salary is **\$80,000 a year**
4. $\$80,000 / 365 =$ **\$219.18 per day**
5. 77 days x \$219.18 per day = **\$16,876**