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Pain and Suffering Damages – Changes in Nova Scotia

The most common injury for those involved in car accidents are soft tissue injuries – i.e. neck pain, shoulder pain, back pain, headaches, insomnia (inability to sleep), anxiety, depression and emotional problems – for which an objective cause cannot be definitively identified.

Typically, soft tissue injuries are distinguished from “objective” injuries, such as a broken bone or torn ligament (which can be seen on an x-ray, MRI or CT scan).

Soft tissue injuries rely on the subjective history and complaints of a patient. Objective injuries can be identified by physicians.

In Nova Scotia, there has been a cap on “minor” injuries arising from car accidents since 2003. There is now a review of this \$2,500 monetary limit cap and it has been reported in the [Chronicle Herald](#) and [CBC](#). Background information can also be found in our [June 4, 2009 blog](#).

This is an important change being considered and the insurance industry in Canada is closely monitoring the issue. A removal of the cap would reverse a trend of provinces to restrict people from recovering from car accidents; it remains to be seen what new system will be implemented.

Ontario does not have a cap on minor injuries. Instead, our system governing pain and suffering damages requires:

- A threshold test to evaluate whether you are entitled to pain and suffering damages (i.e. only serious and permanent injuries can qualify); and
- If you do pass this test and are entitled to collect damages for pain and suffering, that a \$30,000 deductible apply on any award you receive (except for the most serious of injuries).

Background information on Ontario’s system can be found through many blogs, including those under the topic [“Motor Vehicle Accident”](#), [“Damages”](#) or [“Bill 198 Threshold”](#).

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