



## **A scheme creating more hurt?**

The NSW Green Slip motor accident compensation scheme was overhauled in December 2017 at the urging of the Insurance industry.

The most recent figures from the State Insurance Regulatory Authority (“SIRA”) report, *Green Slip scheme quarterly insights – June quarter 2019*, indicates that over 18,000 claims have been lodged under the new scheme. It can therefore be fairly asked, is the scheme doing enough to help those injured in motor accidents? I think there is an argument to be made that many people do not receive adequate and fair compensation for motor accident injuries. But that aside, I thought it would be helpful to give people a broad summary of how the scheme works, and to highlight some unfair consequences of the new scheme.

Claims must be made within three months of the motor accident, but can be made later if a person can provide the Insurer with a “full and satisfactory explanation”.

All people injured in a motor vehicle accident get 26 weeks of wage loss payments, regardless of whether or not the accident was their fault. After 26 weeks, a person will continue to receive payment of wage loss payments and medical expenses from the Insurer if they were not “mostly at fault” for the accident, and they have more than a “minor injury”. A “minor injury” is a soft tissue injury or a minor psychological injury. Because of the definition of “minor injury”, many people who are adversely affected are excluded from receipt of ongoing compensation under the scheme. For example, if a bricklayer hurts his wrist and it takes him more than 26 weeks to recover, how is it fair that he receives no wage loss compensation after 26 weeks? Plainly it is not. SIRA is currently undertaking a review of the definition of “minor injury”.

Under the new scheme, damages are limited to two entitlements. A person injured in a motor accident can claim non-economic loss for pain and suffering but only if they are assessed to be over a 10% “permanent impairment” threshold. A person injured in a motor accident can claim damages for past and future loss of earning capacity.

This new scheme has removed a person’s ability to claim lump sum damages for medical expenses, although payment of medicals can still form part of a person’s statutory benefits as outlined above. The scheme has completely removed a person’s entitlement to damages for domestic assistance. This means a person injured in a motor vehicle accident can no longer claim damages care or assistance provided by a family member or friend.

Following submissions by various groups including the NSW Bar Association SIRA has announced it will conduct a broader review of the scheme next year.

If you have been injured in a motor vehicle accident Toby Tancred can help. He can provide you with legal advice, deal with the Insurer on your behalf and represent you in a claim. Toby Tancred is a Law Society Personal Injury Accredited Specialist and has been recognised by Doyle’s Guide as a Leading Work Injury Compensation Lawyer. Toby Tancred has the experience, knowledge and ability to help all people injured in a motor vehicle accident in difficult times.