

810.02 PERSONAL INJURY DAMAGES - IN GENERAL.¹

(For medical malpractice cases filed on or after 1 October 2011, use N.C.P.I.-Civil 809.100.)

Actual damages are the fair compensation to be awarded to a person for any [past] [present] [future] injury [proximately caused by the negligence] [caused by the wrongful conduct] of another.

In determining the amount, if any, you award the plaintiff, you will consider the evidence you have heard as to (each of the following types of damages):

[medical expenses]

[loss of earnings]

[pain and suffering]

[scars or disfigurement]

[(partial) loss (of use) of part of the body]

[permanent injury]

[state any other type of damage supported by the evidence].²

The total of all damages are to be awarded in one lump sum.³ I will now explain the law of damages as it relates to each of these.

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1. *Bifurcation Note*: for actions commenced on or after 1 October 2011, N.C. R. Civ. P. 42(b)(3) specifies: "Upon motion of any party in an action in tort wherein the plaintiff seeks damages exceeding one hundred fifty thousand dollars (\$150,000), the court *shall order separate trials for the issue of liability and the issue of damages, unless the court for good cause shown orders a single trial. Evidence relating solely to compensatory damages shall not be admissible until the trier of fact has determined that the defendant is liable.* The same trier of fact that tries the issues relating to liability shall try the issues relating to damages." N.C. R. Civ. P. 42(b)(3) (2011) (emphasis added).

2. For example, the plaintiff also can claim damages for loss of consortium of his spouse-provided the plaintiff's spouse does not make that claim. See N.C.P.I.-Civil 800.65 ("Action for Loss of Consortium") and N.C.P.I.-Civil 810.30 ("Personal Injury Damages-Loss of Consortium").

3. *King v. Britt*, 267 N.C. 594, 597, 148 S.E.2d 594, 597 (1966); see also *Smith v. Corsat*, 260 N.C. 92, 131 S.E.2d 894 (1963).