

106.12 PERSONAL INJURY DAMAGES - LOSS (OF USE) OF PART OF THE BODY.

Damages for personal injury also include fair compensation for the (partial) loss of (use of) (*identify part of body affected*) experienced by the plaintiff as a proximate result of the negligence of the defendant. There is no fixed formula for placing a value on the (partial) loss (of use) of part of the body. You must determine what is fair compensation by applying logic and common sense to the evidence. You may consider:

[the extent of any [past] [present] [future]¹ disability or handicap² proximately caused by the negligence of the defendant]

[any [past] [present] [future]³ inconvenience or hardship proximately caused by the negligence of the defendant]

[(*specify any other factor supported by the evidence*)].

However, the plaintiff is not entitled to recover twice for the same element of damages. Therefore, you should not include any amount you have already allowed for [loss of earnings] [pain and suffering] [scarring or disfigurement] because of the (partial) loss of (use of) (*identify part of body affected*).

1. If there is evidence of future loss (of use) of part of the body, whether temporary or permanent, give N.C.P.I.-Civil 106.16 ("Personal Injury Damages-Future Worth in Present Value"). In addition, if there is evidence that the loss (of use) of part of the body will be permanent, give N.C.P.I.-Civil (MV)106.14 ("Personal Injury Damages-Permanent Injury").

2. See *Inge v. R.R.*, 192 N.C. 522, 135 S.E.2d 522 (1926); *Ledford v. Lumber Co.*, 183 N.C. 614, 112 S.E. 421 (1922); *Smith v. Corsat*, 260 N.C. 92, 131 S.E.2d 894 (1963).

3. See note 1.