

## **When Are Punitive Damages Recoverable in Indiana?**

There are different categories of damages that may be recovered by personal injury claimants in Indiana. Some categories are intended to make the wronged party “whole” again by paying for economic damages (medical bills, lost income, and other objectively calculable losses) and non-economic damages (inconvenience, pain and suffering, and other intangible losses).

However, in some circumstances, a Plaintiff can claim “exemplary damages,” more commonly called “punitive damages.” The purpose of punitive damages is to punish the wrongdoer and to dissuade them and others from similar conduct in the future. See [Orkin Exterminating Co. v. Traina](#), 486 N.E. 2d 1019, 1022 (Ind. 1986).

In the state of Indiana, punitive damages are not recoverable in wrongful death cases. They also are not recoverable in most personal injury cases because the defendant typically acted with simple negligence rather than willful or wanton misconduct. You may be awarded punitive damages if the defendant knowingly acted with conscious and intentional misconduct that had a high probability of causing injury.

In a civil case, the Plaintiff has the burden of proving their case by the greater weight of the evidence. However, regarding a punitive damages claim, the Plaintiff’s burden is higher. The Plaintiff must prove their punitive damages claim by clear and convincing evidence. This is where a personal injury lawyer with courtroom experience can help.

## **Indiana Punitive Damages Caps & Allocation**

[Indiana Code § 34-51-3-4](#) caps the amount of punitive damages that can be awarded to Plaintiffs in a civil action. The cap is \$50,000 or three times the total compensatory damages award, whichever is greater.

Pursuant to Indiana Code § 34-51-3-6, a Plaintiff who is awarded punitive damages only collects 25 percent of the total award. The other 75 percent is allocated to the violent crime victims compensation fund.

## **Importance of Hiring an Injury Attorney If You Intend to Pursue Punitive Damages**

If you only sustained a minor injury and you do not foresee a dispute related to liability or damages, you may be able to forego hiring a lawyer and handle the claims process yourself; however, you should absolutely hire an attorney if:

- You incurred significant damages,
- You believe that the defendant or insurance company intends to dispute your claim, or
- You intend to pursue non-economic or punitive damages.

Non-economic and punitive damages are often more challenging to prove than economic damages since they are not objectively verifiable. An experienced attorney can determine whether your claim for non-economic or punitive damages has merit and, if so, will know how to calculate and prove them. Your lawyer can also help you avoid mistakes that might lead to a damages dispute, which not only could increase the amount of compensation you ultimately recover but also might prevent unnecessary delays and stressful litigation.

## **Discuss Your Case with a Lafayette Accident Lawyer**

Our [Lafayette personal injury attorneys](#) can answer all of your claims-related questions including those related to exemplary damages. Our law firm offers free initial consultations, and we will not charge you any attorneys' fees unless we win your case. Call xxx-xxx-xxxx or [contact us online](#) to learn more.

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