

Work Injury Attorney in Houston Work Place Injuries

Work place injuries happen on a daily basis, ranging from a minor muscle strain to catastrophic injuries and death. They can happen due to the victim's own fault, the fault of a co-worker, a defect in a machine, or the failure of an entire system. Headlines remind us of the spectacular failures, such as the collapse of a tunnel, an explosion at a refinery, or a fire at a factory. If you have been **injured on the job**, you need to know your rights and benefits. In many cases, the victim or the victim's loved ones can look to more than one source for financial relief or compensation. The following is a summary of remedies that might apply in various work place situations.

I. WORKERS COMPENSATION CASES - MOST PEOPLE GO IT ALONE

On January 1, 1991, Workers Compensation law in Texas changed drastically. The intent behind the new law was to force the lawyers out of the system. They accomplished this in two ways: First, they made the rules of procedure so tight that there was little room to argue. (The idea being that if there is no room for argument, there is no need for either side to hire a lawyer). Secondly, they took away lump sum settlements, thereby taking the contingent fee away from the attorney. Whereas in the past the attorney could collect 25% of the lump sum settlement, under today's law, the attorney can only collect an hourly fee and that fee is paid out of the injured worker's weekly benefits, not by the insurance company. Not too many injured workers are willing to sacrifice their benefit check in order to retain a lawyer. On the other hand, the hourly fees a lawyer can collect are too small to make workers compensation representation profitable. As a result, most injured workers do not retain an attorney to help them with their workers compensation claim.

Workers Compensation Benefits: TIBS, IIBS, and SIBS

The injured worker can collect Temporary Income Benefits (TIBS) until his doctor certifies that he has reached Maximum Medical Improvement (MMI), or for two years, whichever is less. After this, the worker is eligible for Impairment Income Benefits, (IIBS) which is equal to three times the percentage of impairment assigned to him by his doctor. For example, if the doctor reports that the worker has a whole body impairment of 10%, he will receive 30 weeks (3 x 10%) of benefits. If the worker receives an impairment rating of 15% or greater, he is eligible for Supplemental Income Benefits (SIBS).

II. THIRD PARTY CLAIMS - YOU MAY NEED A LAWYER

If the worker is injured through his own negligence, or the negligence of a co-worker who works for the same company, the claim is strictly a workers compensation claim and must proceed under the tight rules of workers compensation law as outlined above. However, if the worker is injured through the negligence of a third party, then he really has two claims: a workers compensation claim and a general negligence claim.

A typical scenario is when a person is driving a vehicle while in the course and scope of his employment and gets injured when another driver runs a stop sign. Another scenario is when a person gets injured while working alongside an employee of another company. This can happen at a construction site where, for example, a person working for a plumbing company is injured through the negligence of a person working for an electrical company. In these situations the worker has a claim under the workers compensation insurance and a claim for negligence against the at-fault person (the driver who ran the stop sign, or the employee of the electrical company).

In a third party claim, the workers compensation insurance company will pay for the medical treatment and for lost income. However, it can and does recover these expenses out of the third party settlement. This is because workers compensation law gives the workers compensation insurance company a lien against the third party claim. An injured worker involved in a third party claim should consult with an attorney about handling the negligence claim and the workers compensation lien. At Goldapp-Rodriguez, a fair percentage of our cases involve workers compensation liens. We are usually able to settle the negligence claim, pay the workers compensation lien at a 1/3 reduction, and retain a bigger portion of the third party settlement money for our client.

III. NON-SUBSCRIBER CASES - YOU SHOULD DEFINITELY CONSULT WITH A LAWYER

What is a non-subscriber case:

A non-subscriber case occurs when a worker is injured while working for a company that does not provide workers compensation insurance. In Texas, employers are not required to buy workers compensation insurance. In order to encourage employers to carry workers compensation insurance, the law provides certain incentives. The biggest incentive is that an employer who buys compensation insurance is immune from a negligence claim. A worker who is injured through the negligence of a co-worker, or even from the negligence of the boss himself, cannot sue the employer for negligence. His only remedy is to file a workers compensation claim.

On the other hand, there are certain risks to the employer who chooses not to buy compensation insurance - he can be sued for negligence. Most importantly, the law in this situation makes it extremely easy for the injured worker to prove negligence. In ordinary negligence cases, the Plaintiff must prove that the at-fault person was at least a fraction over 50% negligent in order to win. Even at that, the Plaintiff's award is reduced by the amount of negligence attributed to him. This is known as contributory negligence. For example, if the jury awards the plaintiff \$100,000.00 but finds that he was 25% at fault, he recovers only \$75,000.00. In a non-subscriber case, all the Plaintiff has to do to win is prove that the other person was only 1% at fault. This is a very small burden of proof to meet and makes the Plaintiff's case very winnable. Even better, the Plaintiff's negligence is not counted against him. Therefore, even if the jury finds that the Plaintiff was 99% at fault in causing his injury, he gets 100% of the award as long as the employee or a co-employee is found to be 1% at fault.

ARBITRATION:

Many companies have chosen to buy private plans instead of becoming worker's compensation subscribers. These plans provide a schedule of benefits and rules of procedure to follow in the event of an injury. Most of these plans take away the employees' right to a trial by jury and require that any disputes be resolved through arbitration. The important thing to remember is that the negligence rules remain the same - you still only have to show 1% fault on the employer or co-employee. The **attorneys** here at Goldapp-Rodriguez have had good success with these cases even when the plan forces us to use an arbitrator instead of a judge and jury.