

After the accident: an action plan for families

By [AdvocateDaily.com](#) Staff



Toronto personal injury lawyer [Jasmine Daya](#) says there are few events in life that evoke more fear than a call from a hospital advising that your loved one has been in a car accident and has sustained a catastrophic injury.

If it happens, your next call after talking with your family should be to a lawyer, she tells [AdvocateDaily.com](#).

“Connecting with a lawyer at the outset is so important, and it usually has to be undertaken by the family,” says Daya, managing partner of [Fireman Daya & Co.](#)

“The individual with the injury is dealing with what they are left with from a health perspective and the mental anguish that comes with catastrophic injury. It’s difficult for them to cope with emotionally, and it’s understandable that they’re not able to think beyond what just happened.”

Even for a lawyer, the amount of paperwork and co-ordination required to file insurance claims, set up a rehabilitation plan and initiate modifications to a person’s home for when they leave hospital can be overwhelming. You are going to need someone you can trust, who has experience and contacts, and who will work around the clock in the first few days to get many balls rolling, Daya says.

When a family member has suffered a catastrophic impairment — a brain injury, major paralysis, loss of limbs or vision — the first order of business is to file claims to the accident insurer, any workplace-benefit insurers, and federal and provincial disability programs if appropriate, Daya explains. This work should be completed within the first 24 hours.

Also in the first day or two, a case manager must be appointed to set up a rehabilitation plan and organize treatments for the injured person in consultation with medical professionals. The lawyer will co-ordinate payments from the insurers to the therapy providers.

Not as immediate, but equally important, will be figuring out where the patient will go once released from the hospital. This might involve a home assessment and modifications such as ramps, rails or elevators, as well as attendant care.

With so much at stake, it’s essential the family has a lawyer they have faith in, Daya says.

“If they don’t have that trusting relationship, it’s going to be detrimental to the mental well-being of the client,” she says. “The client has to be able to focus on rehabilitation, both physically and mentally, and leave the legality of the claim to the lawyer — feeling confident she is handling things for them.”

Daya, who has been practising personal injury law for 12 years, is currently working with a client who lost a leg above her knee in a motorcycle accident. The woman’s leg was severed at the scene, and she has subsequently undergone two operations for more extensive amputation. Her husband was driving the motorcycle and remains in a coma in hospital.

Daya got a call from the family three days after the accident. Over the next two days, she met with them for four hours, filed the accident insurance claim, dealt with the employer’s insurance paperwork, retained another lawyer to get her client appointed guardian for her comatose husband, filed an application for access to the police accident file, appointed a case manager, checked with the hospital to ensure it had completed an application for catastrophic determination, and contacted an engineer to examine the motorcycle at the accident scene to ensure the other driver’s insurance company cannot argue that her client was at fault.

In this case, the damages claim is likely to be larger than the at-fault driver’s policy limit, so it’s important to have all the information to seek other avenues of support — either from the other driver personally or from her client’s own insurer.

Insurers have a timeline to make payments, and treatment needs to start right away, so there also has to be a trusting relationship between the treatment providers and the lawyer, Daya says.

When it comes to finding a good personal injury lawyer, don’t rely on friends’ referrals or Google, Daya advises.

“Qualified, reputable lawyers have websites — study their educational background, experience and areas of practice,” she says. “Your friend might refer you to a really great lawyer down the street who handled the sale of their

home, but maybe that person doesn't do personal injury. "

Then meet the lawyer and assess whether she's the right advocate for your situation, Daya says.

"Once you've engaged them, monitor their progress," she says. "Are they getting the job done? Have they processed the paperwork? Have they assembled a rehab team? Are they communicating with you?"