



ANDERSONS
S O L I C I T O R S

LawTalk Blog



Are dependency claims affected by the changes to the motor vehicle accident laws?

Date: Tuesday September 2, 2014

Traditionally the law has recognised the right to bring a claim for compensation by the survivors of a person who has died in a [car accident](#). The essence of that claim is that they have been deprived of the economic benefit provided by the deceased. The claim is limited to those who are dependent on the deceased in that respect. Generally it is the surviving spouse and children who are entitled to bring such a claim, but it may also be others.

There does not appear to have been much discussion on this issue since the new Motor Vehicle Legislation took effect from 1 July 2013. Logically such claims continue. They have not however escaped totally unscathed and the relevant amending section is Section 58B of the *Civil Liability Act*.

There appears to be an intention in this section to have the Courts avoid making a "broad axe" assessment of a future entitlement. The section imposes the requirement on the Court to state the circumstances that they are taking into account in arriving at a decision and the fact that each of those circumstances has been evaluated by the Court as to its likelihood occurring.

More tellingly, the last sub-paragraph of the section states that "Damages awarded in relation to a relevant loss of financial support claim must....be discounted by a further 20%".

This illogical and mean spirited reduction is consistent with the rest of the Act in dealing with questions of past and future economic loss claims for people injured in a motor vehicle accident including car drivers and passengers, truck drivers, motorcyclists, cyclist and pedestrians.

See related articles about the new compulsory third party insurance scheme in South Australia:

New motor accident compensation scheme - how is it looking so far?

How are cyclists faring with the new motor accident compensation scheme?

How is compensation calculated in motor vehicle accident?

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.