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Key updates in Personal Injury Law across Europe and beyond

BRUSSELS, 26 SEPTEMBER 2025

AVV. GIULIA OBERTO

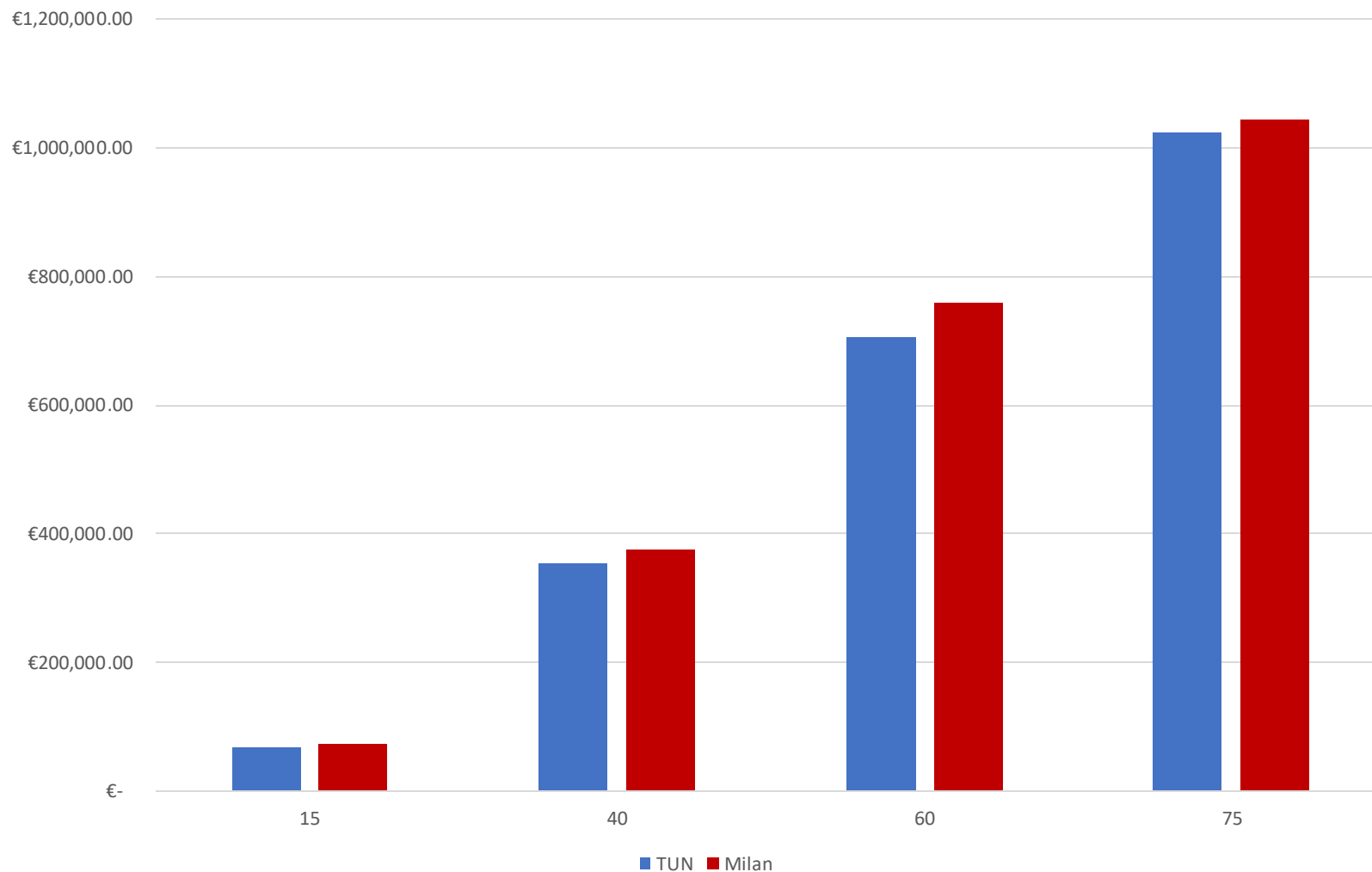


T.U.N. (Consolidated National Table) D.p.r. n. 12/2025, 13 January 2025

- **Used to calculate the compensation of:**
 - non-pecuniary damages for serious injuries (10-100%)
 - damages caused by road traffic accidents and medical malpractice
 - accidents occurred after 5 March 2025
- **Introduces a system based on parameters considering the following aspects:**
 - **Invalidity points:** each point from 10 to 100 is associated with a progressive monetary value
 - **Age of the injured party:** the value of each point decreases with the increasing age
 - **Moral damage:** coefficients, based on the seriousness of the injuries and particular personal circumstances (minimum, average and maximum increases), increase the value of the compensation

COMPARISON

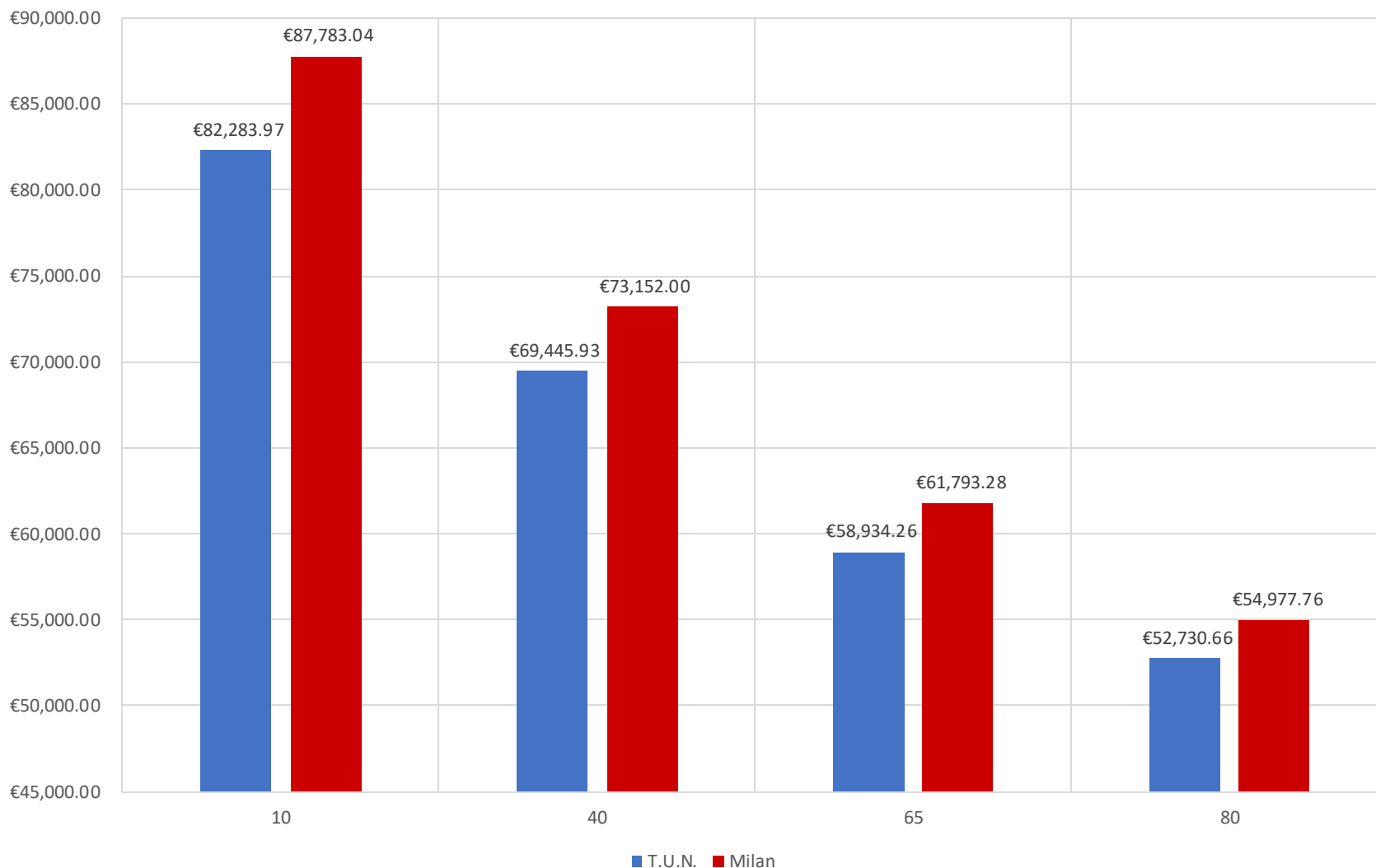
Between T.U.N. 2025 and Milan tariffs 2024



Age : 40

COMPARISON

Between T.U.N. 2025 and Milan tariffs 2024



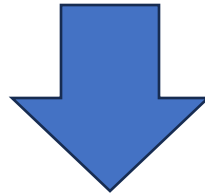
Percentage point of permanent invalidity: 15%

CRITICAL REMARKS

- Out of time
 - Enforced in 2025 instead of 2022
 - Grounds for unconstitutionality?
- Lower compensation amounts than in the previous tables for both permanent and temporary invalidity
- Possible application to claims occurring before its enforcement?
- Possible application to all other areas of civil liability?

COMPENSATION FOR SMOKING DAMAGES

Supreme Court, Third Division, 25 July 2025 n. 21464
Supreme Court, Third Division, 23 May 2025 n. 13844



The consumer's free choice to smoke is not sufficient to exclude the cigarette manufacturer's obligation to pay compensation.

The production and marketing of tobacco is classified as a dangerous activity

Reversal of the burden of proof and new scenarios for victims and their families

MEDICAL LIABILITY

The Council of Ministers approved a draft law introducing a “criminal shield”:



No punishment in cases of manslaughter and negligent personal injury committed in the exercise of the healthcare profession, unless it is a case of gross negligence, provided that the professional has complied with guidelines or best practices appropriate to the specific case.

GUIDELINES

The specific parameters that the judge must take into account in criminal proceedings to ascertain guilt and the relevant degree are:

- **the lack of available human and material resources**
- **organizational deficiencies in the healthcare facility**
- **the complexity of the patient's condition**



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THANK YOU FOR YOUR ATTENTION!

Key updates in Personal Injury Law across Europe and beyond

SPAIN

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London, 26 September 2025



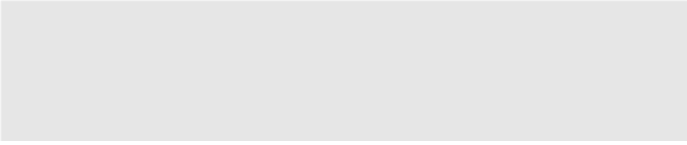
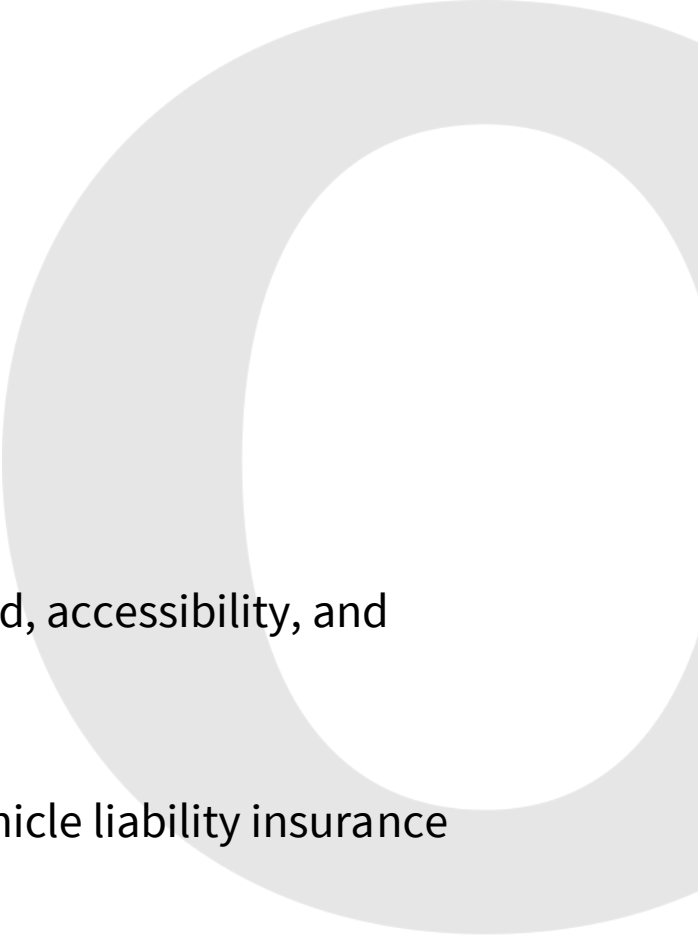
What is NEW in Spain?

Law 1/2025, concerning Measures for the efficiency of the Public Service of Justice

The purpose is to modernize and reorganize Spain's judicial system to improve speed, accessibility, and consistency.

Law 5/2025 brings a comprehensive reform to the Spanish legal regime of motor vehicle liability insurance and civil responsibility in traffic accidents.

Its purpose is to modernize, expand, and align the national framework with Directive (EU) 2021/2118.



Law 1/2025 Measures for the efficiency of the Public Service of Justice

- In force since 3 April 2025.
- Structural / Organizational Changes
- Mandatory Alternative Dispute Resolution (MASC) methods
- Before filing civil or commercial lawsuits, the parties **must attempt any of the following alternative dispute resolution methods:**

Mediation

Conciliation

Without prejudice negotiations

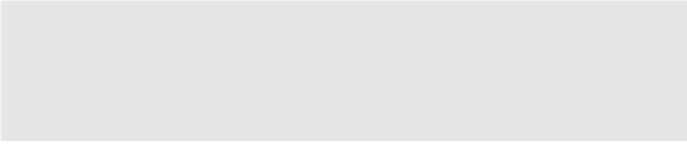
Arbitration

Third expert opinion

Collaborative law

Law 5/2025 Reforms to Motor Vehicle Liability Insurance & the System on Assessment of Damages

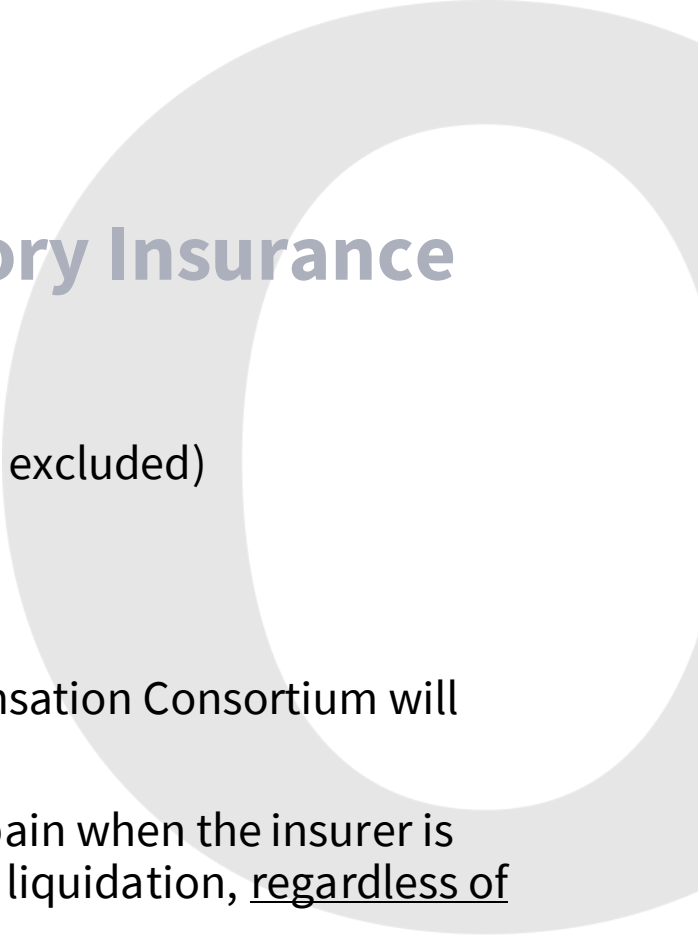
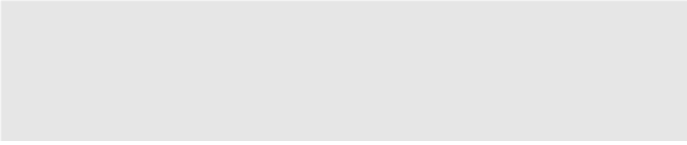


- In force since 26 July 2025.
 - Amend the Law on Civil Liability and Motor Insurance In Vehicle Circulation
 - Also modify the System for the Assessment of Damages (so-called Baremo)
 - Its aim is to transpose European Directive (EU) 2021/2118, enhancing protection for victims and clarifying various indemnity rules.
 - New Data Protection Regime
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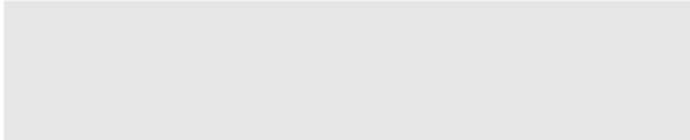
Law 5/2025 – Expanded definition of Motor Vehicles

- The definition of motor vehicle now includes:
 - a) Any road vehicle propelled by mechanical force (excluding rail vehicles) whose maximum manufactured speed is over 25 km/h, or*
 - b) Any such vehicle whose net weight exceeds 25 kg and whose max speed is over 14 km/h.*
 - c) Trailers and semi trailers (whether attached or not) intended to be used in conjunction with a motor vehicle are also included.*
 - d) Agricultural or industrial vehicles are now included.*
- Expanded definition of “traffic event” which is broadened to cover the use of the vehicle as a means of transport, even when stationary, with certain exceptions (e.g. intentional damage, transport as goods)
- This definition is now in line with jurisprudence from the Court of Justice of the European Union.

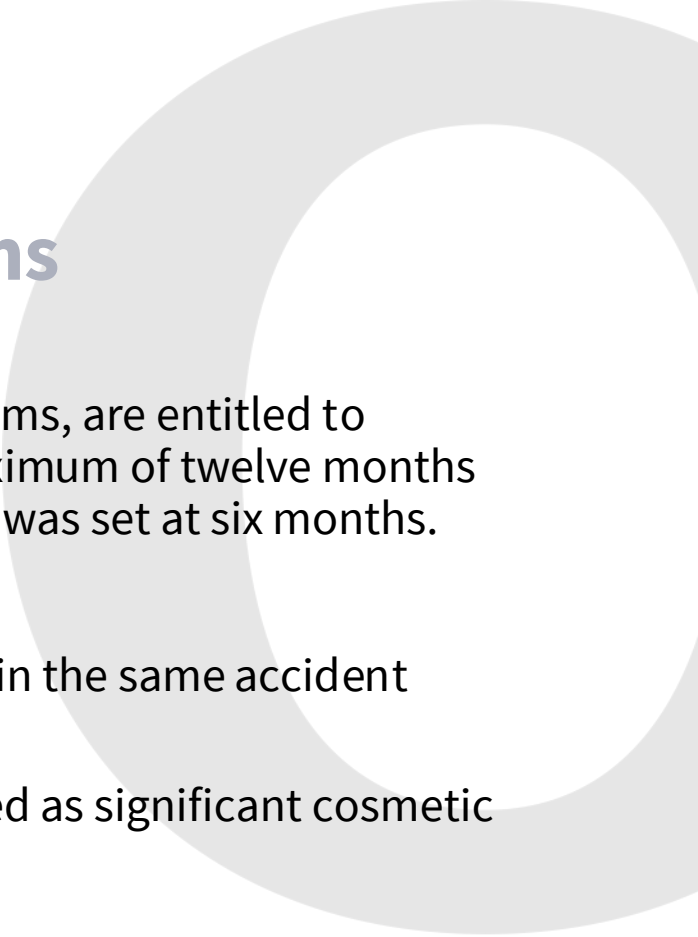
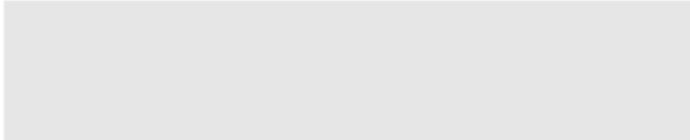
Law 5/2025 - Expansion of the Scope of Mandatory Insurance

- Liability insurance must now cover the newly included vehicles (even if previously excluded)
 - Light personal vehicles such as electric scooters requires compulsory insurance.
 - A public registry for these vehicles will be created by Jan 2, 2026
 - A transitional six-month period is established during which the Insurance Compensation Consortium will assume coverage.
 - The role of the Insurance Compensation Consortium must indemnify victims in Spain when the insurer is insolvent or when the insurer is from another EU member state and is undergoing liquidation, regardless of the habitual parking state of the vehicle.
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Law 5/2025 - Strengthened Protection for Victims

- The reform aligns Spanish law with Directive (EU) 2021/2118 on motor insurance.
 - Removal of limits on compensation for loss of earnings during the period of temporary loss of quality of life.
 - Expanded compensation in the table concerning rehabilitation
 - Recognition of new personal injury damages (e.g. spouse's sexual harm)
 - Broader definition and recognition of non pecuniary damages (moral, psychological, loss of quality of life, etc.).
 - Update figures for future medical and care especially but not limited to severe injuries.
 - Improvements to extrajudicial resolution of disputes, faster medical expert reports, quicker and free of charges access to police reports.
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Law 5/2025 - Strengthened Protection for Victims

- The injured relatives of deceased victims, as well as those of seriously injured victims, are entitled to compensation for the medical and psychological treatment they receive for a maximum of twelve months for any psychological disorders caused by the accident. Previously, the maximum was set at six months.
 - Technical Actuarial criteria shall be reviewed every five years.
 - Compensation for the loss of both parents is extended to the loss of two relatives in the same accident (increase of the 25% to the basic compensation)
 - Permanent vegetative state and the most severe cases of quadriplegia are included as significant cosmetic impairment.
 - New definition of damage due to mild loss of quality of life.
 - Under no circumstances the driver solely responsible for the accident will be considered an injured party.
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Conclusions

- 2025 is a pivotal year in Spain's legislative evolution.
 - Law 1/2025 it is a landmark reform for Spain's justice system aimed at **efficiency, accessibility and modernization** which also pretend to reduce court congestion and promote out of court agreements.
 - If well implemented, it has the potential to reduce judicial backlogs and improve consistency in judgments.
 - Law 5/2025 marks a significant shift toward a more inclusive, protective and victim-focused legal approach.
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Key Updates in Personal Injury Law

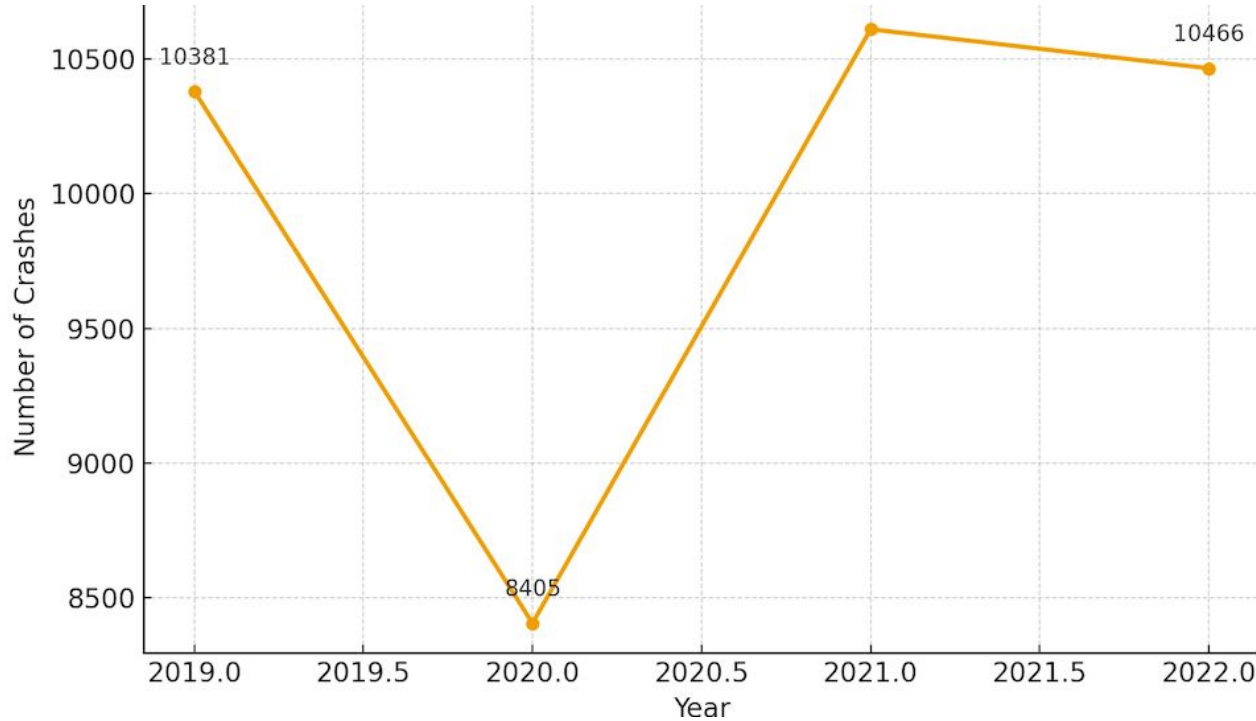
By: Tzvi Brivik
of Malcolm Lyons & Brivik Inc



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Motor Vehicle Accidents in South Africa

From 2019 to 2022

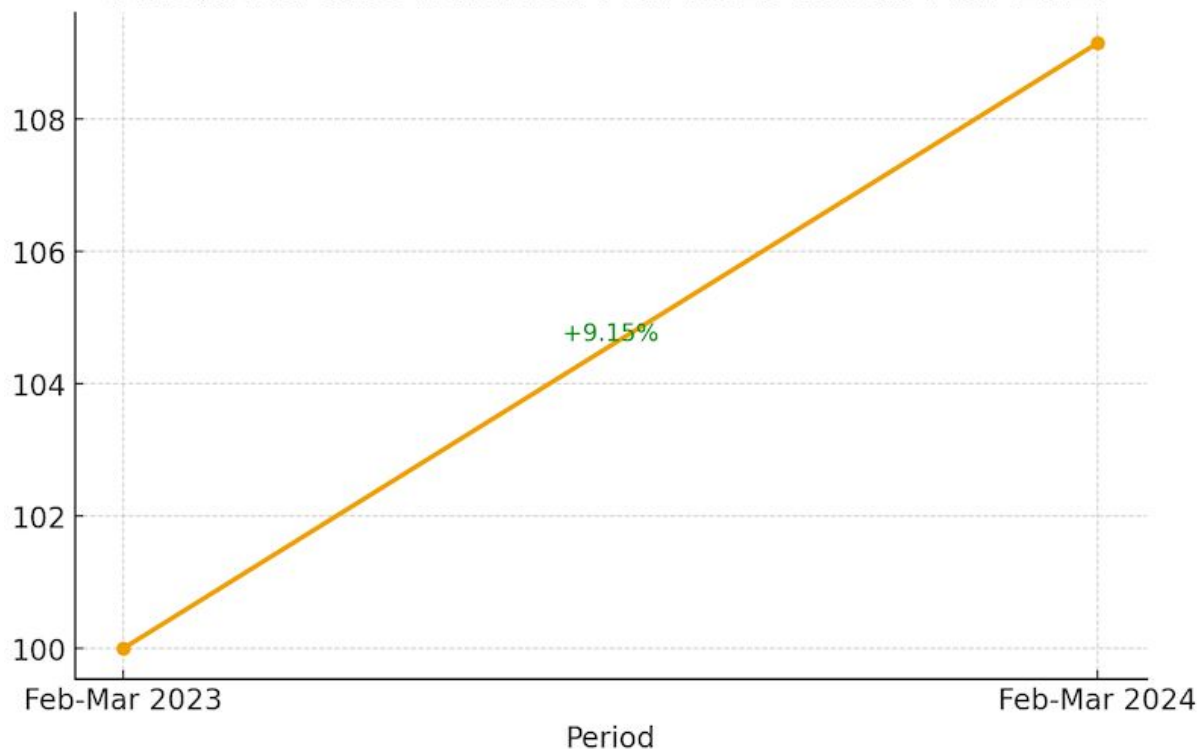




Motor Vehicle Accidents

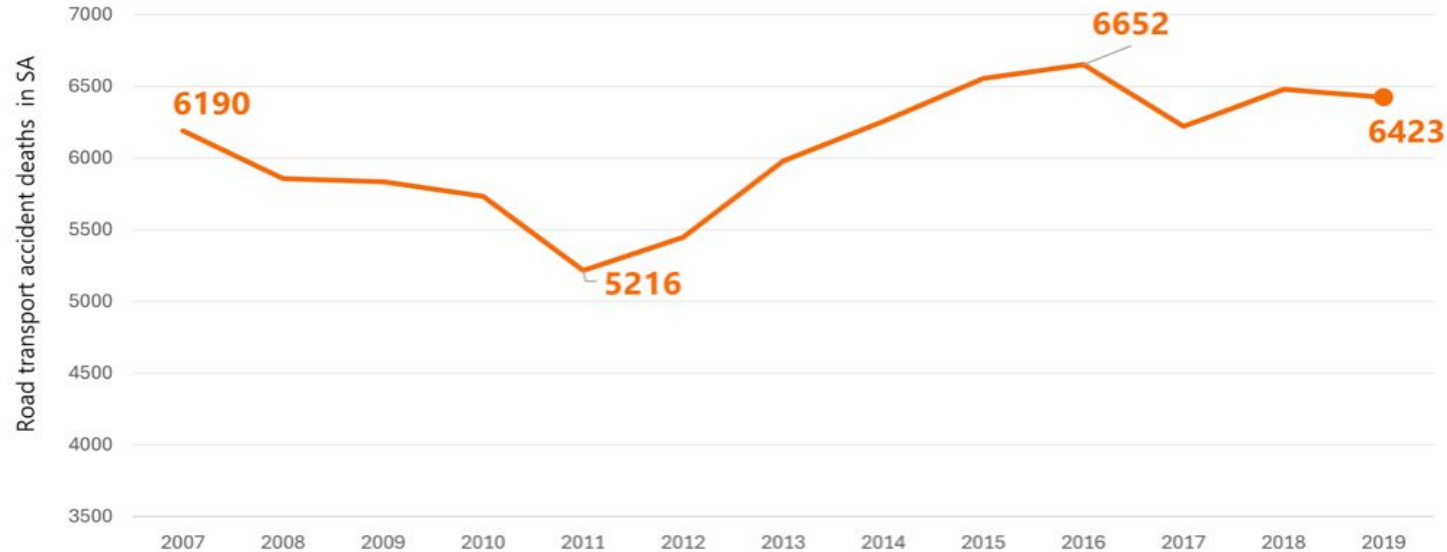
During the festive season between 2023-2024

9.15% Increase from Feb-Mar 2023 to Feb-Mar 2024



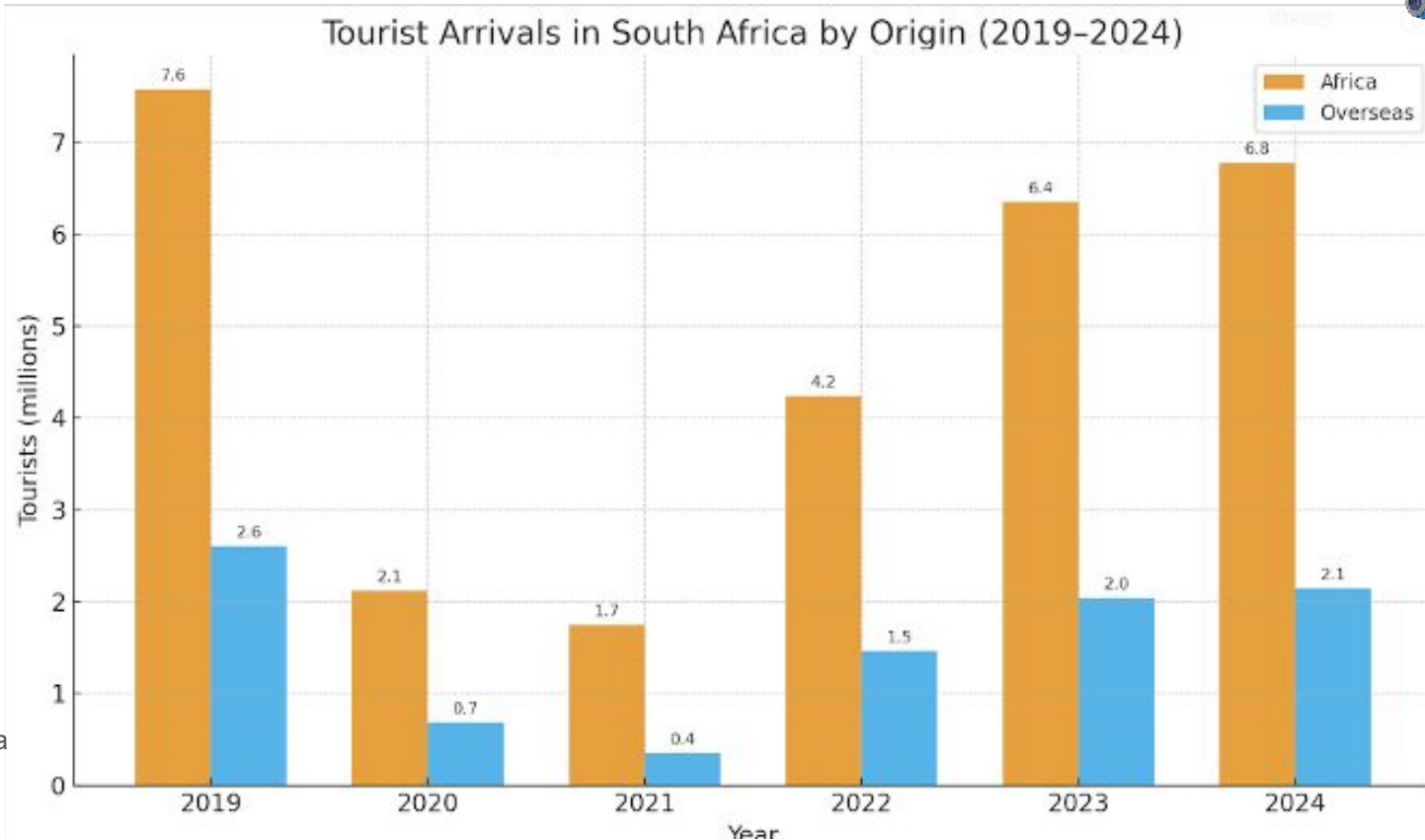
Road transport accident deaths showed an **increase in the number of deaths** from 6 190 in 2007 to 6 423 in 2019

Number of road transport accident deaths by year of death, 2007–2019



Source: Road Transport Accident Deaths in South Africa, 2007–2019

Tourism in South Africa:



<https://www.statssa.gov.za/?p=18282>



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Percentage distribution of tourists by region of residence, 2019

<https://www.statssa.gov.za/publications/Report-03-51-02/Report-03-51-022019.pdf>

Unspecified
15 591
(0,2%)

Overseas
2 612 159
(25,5%)

Africa;
7 600 843
(74,3%)

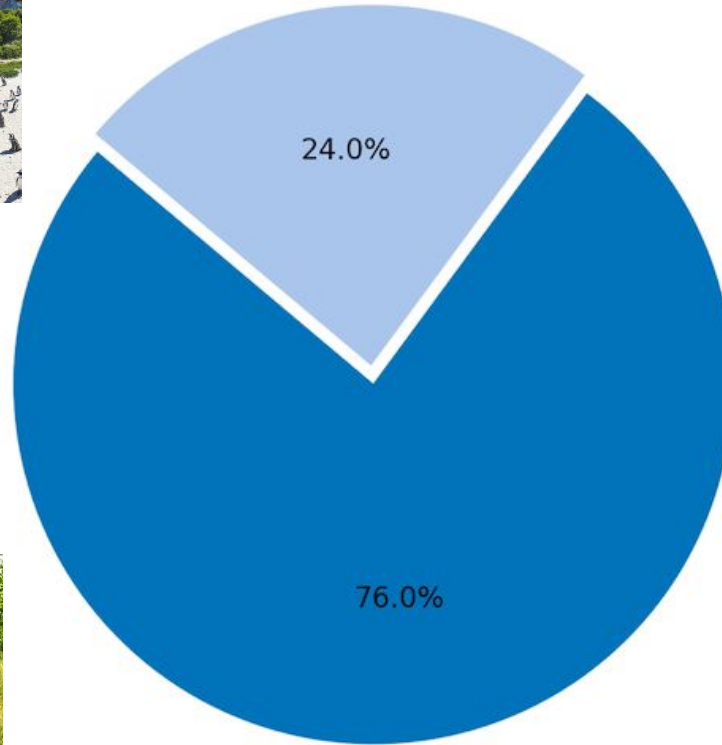
SADC
7 440 893
(72,7%)

'Other' African
159 950
(1,6%)



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Percentage distribution of tourists by region of residence, 2024



<https://www.statssa.gov.za/publications/P0350/P0350December2024.pdf> Africa (76%)



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Medical Tourism Agencies:

- Medi & Tours
- MedXplore
- Vivari Aesthetics
- Surgeon & Safari
- Med-Afrique Medical Tours
- Surgical Bliss
- Mappa Travel

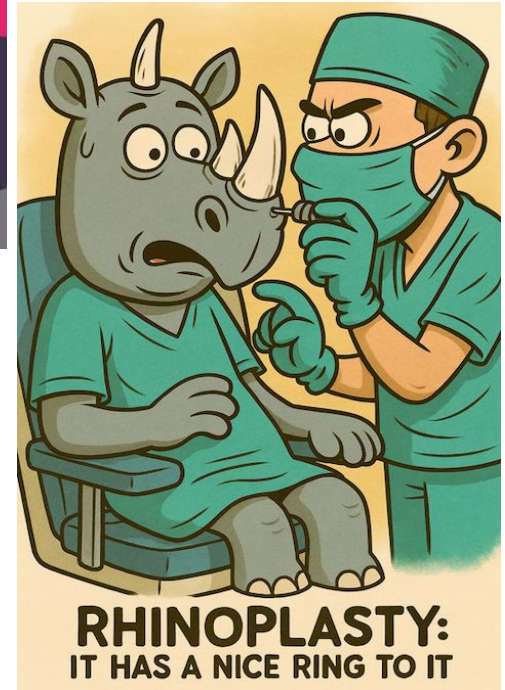


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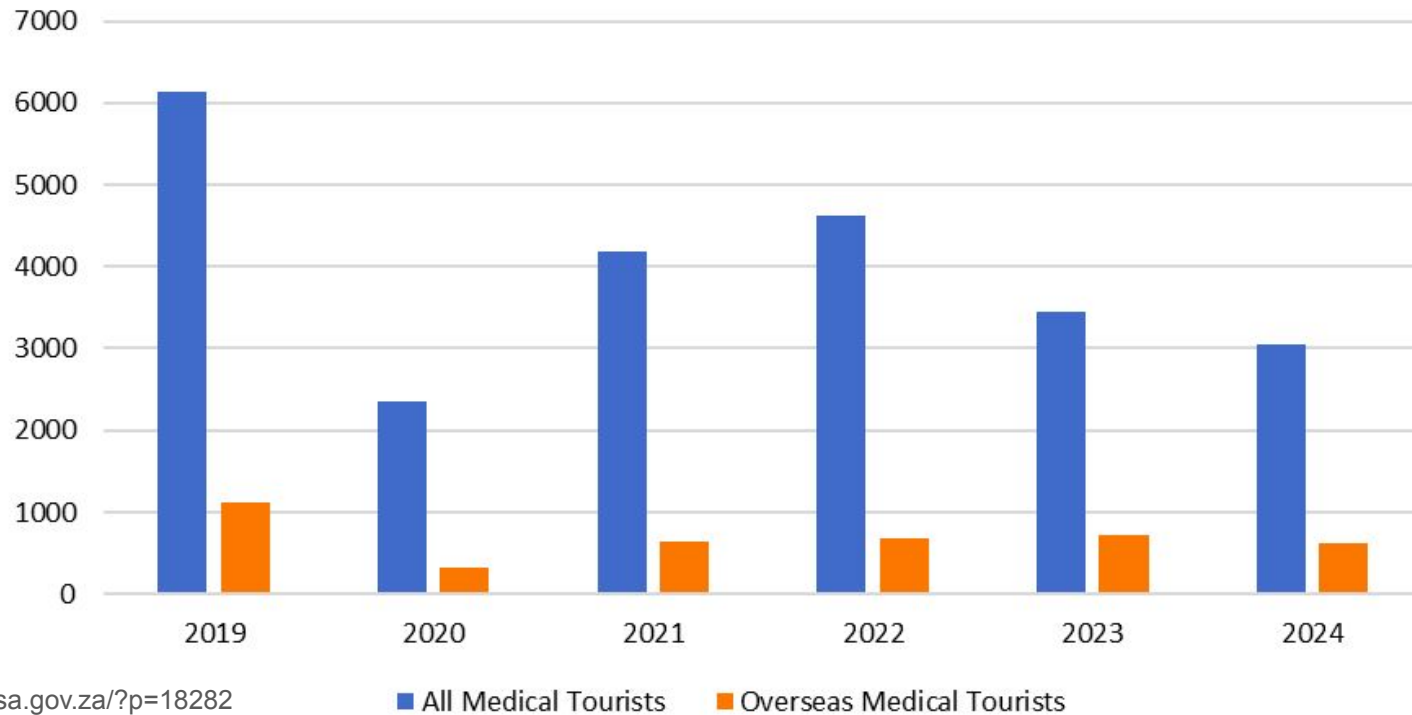
medxplore
Medical Tourism South Africa



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Medical Tourism in South Africa: over the last 5 years

Medical Tourism in South Africa (2019-2024)



<https://www.statssa.gov.za/?p=18282>



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When your vacation package comes with both all-inclusive drinks and stitches included — that's real health coverage abroad!

Personal Injury Plaintiff Lawyers Association: **PIPLA**

- Formed in 2020 as a non-profit organization to represent the interests of attorneys, advocates and medical experts, other experts and an persons who represent or assist people who have been injured in motor vehicle accidents in South Africa.



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The South African Medico-Legal Association:

SAMLA

- As a professional association, they strive to bring together medical and legal experts to promote mutual understanding and collaboration in the field of medico-legal matters as well as advising & educating its members.
- SAMLA formed a road accident fund subcommittee which allowed them to enter discussions with enhancement committees regarding the future formation of a RAF Mediation Committee.



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Pretoria Attorneys Association:

PAA

- An organization which safeguards the legal profession & ensures that members practice in an environment that coincides with the years of study and financial sacrifices that they have had to ensure to become members of this esteemed profession.
- The PAA has regular formal interactions with court officials, deeds offices, municipalities, Masters Offices, Government Ministries, CIPC and the like at the highest levels.
- The PAA partnered with various other voluntary organizations to call for widespread public participation to stop the Road Accident Fund Amendment Bill from being implemented in 2023.

paa



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Road Accident Benefit Scheme: **RABS**

The aim is to provide for a social security scheme for victims of road accidents, to establish the road accident benefit scheme administrator (a juristic person) to administer and implement the scheme;

- to provide a set of defined benefits on a no-fault basis to persons for bodily injury or death caused by or arising from road accidents;
- to exclude liability of certain persons otherwise liable for damages in terms of the common law;
 - > The owner or driver of a vehicle involved in the road accident
 - > Employer of the driver

and to provide for matters connected therewith.

(taken from gov gazette/18 April 2017)



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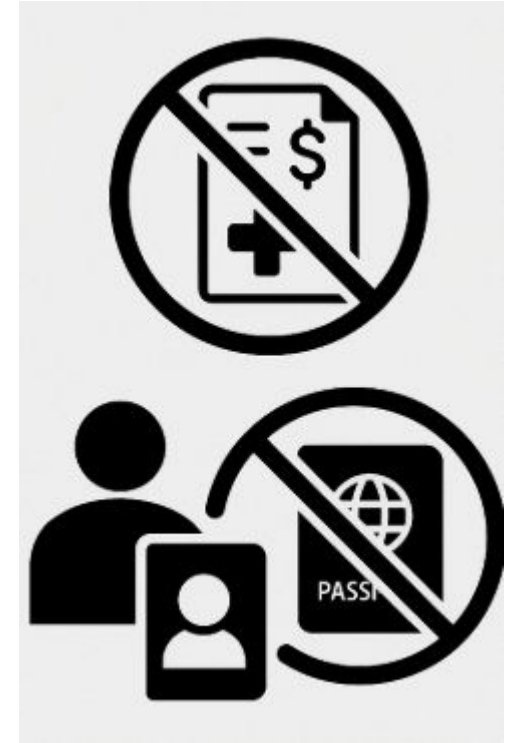
RAF Tactics to Limit Payouts:

Medical Aid Payouts:

- RAF argues it can deduct amounts paid by medical aids/ insurers.
- Plaintiffs argue es inter alios acta: benefits from private contracts shouldn't reduce claims.

Foreign Nationals:

- RAF blocks claims from undocumented foreigners (internal board notice).



Gig Economy Impact:

- Delivery drivers face high accident risks.
- Many are asylum seekers or undocumented → barred from RAF claims.
- Tourists with stamped passports remain eligible.



The Law Society of South Africa welcome a High court Ruling striking the Road Accident Fund's urgent application for another 180-day suspension for executions, with punitive costs. The Court found no urgency & stressed that temporary moratoria cannot become indefinite delays in paying victims.

This judgement affirms that systematic RAF issues must be solved through proper planning, transparency, and cooperation, not repeated urgent application. It also reinforces the rights of victims and the rule of law.

This judgement was a victory for claimants who depend on timely RAF payments for medical care, rehabilitation and income support.



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Volume of litigation in the Courts:



The South African civil justice system has introduced multiple reforms to improve efficiency. In Gauteng, mandatory mediation now requires litigants to consider settlement before trial, reducing unnecessary court cases. The Uniform Rules further streamline proceedings with case management, pre-trials, default and summary judgments, ensuring quicker resolutions where claims are clear. Specialised courts, such as commercial and insolvency courts, enhance expertise and ease caseloads, while national specialised courts cover labour, land claims, elections, competition, and tax matters. Technology also plays a key role: systems like CourtOnline and CaseLines enable e-filing, digital case management, and electronic evidence handling, cutting delays and preventing file loss. Collectively, these measures promote faster, fairer, and more cost-effective justice delivery.

State Liability in Medical Malpractice:

- State = the largest defendant (chronic care, maternity, emergencies).
- Birth injury cases are common.
- State tries to force victims back to the same hospitals for care.
- SCA held that victims should have a choice of reasonable private treatment.





The Golden Ticket Defense

Mashinini v MEC for Health and the “Golden Ticket Defence”

Facts:

- Nurse underwent routine gallbladder surgery (2014); bile duct & artery perforated → severe complications.
- Ongoing pain, repeated procedures, psychiatric issues, career impact.
- Experts estimated future private medical/therapy costs ≈ R879k.

High Court (2021):

- Applied “public healthcare defence” → treatment to be provided at CMJAH (public hospital).
- Monetary award limited to psych care, occupational therapy, loss of income & general damages.
- Total: R2,084,250.40.

SCA (2023):

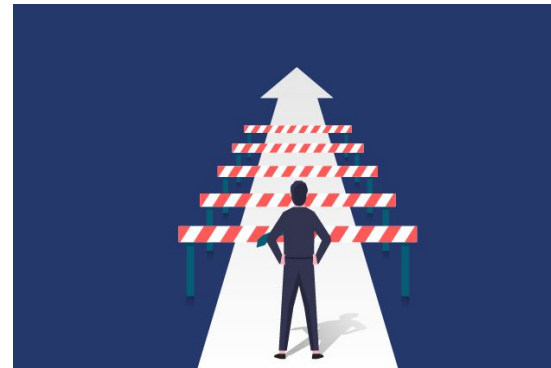
- Overturned: MEC failed to prove public hospitals could provide equivalent care.
- Held: damages must ordinarily be monetary unless proven otherwise.
- Evidence showed public hospitals lacked capacity & reliability.
- Total award: R3,213,564.40.



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Current Challenges:

- Mediation & digitisation processes are still uneven.
- New High Courts lack experience → corruption & administrative issues.
- The volume of litigation has increased but the amount of resources available have decreased.
- Ongoing fight: fair compensation vs attempts to minimise payouts.



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Personal Injury Claims in Ireland

By Liam Moloney, PEOPIL IRISH BOARD MEMBER

PEOPIL ANNUAL CONFERENCE IN BRUSSELS 2025

LIMITATION PERIODS

- ALL Claims for Breach of the Liability for Defective Products Act 1991 have a 3 year time period
- Ordinary RTA and occupational cases have a 2 year time period
- All non-medical cases are submitted to the Personal Injuries Resolution Board for assessment
- This stops the Statute of limitations running against the case

Common Law Damages

- Damages for pain and suffering is set by the Personal Injury Guidelines
- Judges must have regard to those guidelines when assessing damages post Injuries Board assessment
- Board provides mediation process by consent.
- Cap on General Damages of €550,000.
- Assessment process can take 18 months
- No legal fees payable to claimants

Burdens of Proof and Reduction in damages

- A Plaintiff must show that negligence caused injury to the Plaintiff on the balance of probabilities
- Ie it is more likely than not that the negligence caused the injury
- Strict Liability in Product law cases
- New Guidelines on awards since 2021 have reduced damages levels by over 35% in whiplash awards
- Costs implications if PIRB awards are not beaten.

HOW ARE DAMAGES ASSESSED?

Must be fair and appropriate for the injuries concerned

Must take into account a sum for future pain and suffering

Must provide reasonable payments for future economic losses

Conclusion

- Ireland is no longer a generous compensation regime.
- A lot more cases are mediated than litigated.
- Reasonable limitation periods and still Claimant friendly
- Move to introduce “lawyer free zones” in compensation systems
- Levels of cases being pursued have reduced due to reduction in damages as non –economical