

## THE CRIMINAL INJURIES COMPENSATION TRIBUNAL

The consequences of crime can vary depending on the nature of the crime and the damages involved. If you are a victim of crime there are two legal routes open to a particular individual to explore.

Firstly, by way of a criminal prosecution and secondly, by taking a civil case where the consequences can include physical and financial hardship as a result of the assault or attack.

The Criminal Injuries Compensation Tribunal has extensive powers to make an award of compensation in appropriate cases. The Scheme is still going strong to date. The Tribunal provides for the making of ex gratia payments in respect of the personal injuries or death (1) where they were caused by a crime of violence; (2) in circumstances where the victim was assisting in the prevention of a crime of violence and (3) in the course of the saving of human life (no criminality need be present in these cases).

The Tribunal can not make awards or payments for suffering or injuries sustained after 1<sup>st</sup> April 1986, however, for out-of-pocket expenses, loss of income (including future losses), loss of opportunity and damages for mental distress in fatal cases provided in the Civil Liability Act (currently €25,394.76) are recoverable. General damages can be awarded in respect of incidents if they occurred prior to 1986, for example, a victim of child sex abuse would be able to recover if they can satisfy that they were suffering from a disability and their state of mind at the time made incapable of bringing such a case on their own behalf.

As there are limitations and restrictions in place on the Tribunal, it is important that these are pointed out to the victims. The following questions will be raised when the Tribunal Members exercise their discretion. For example:

1. Was the matter reported to the Gardai without delay? Were reasonable efforts made to notify the Gardai of the offence and to co-operate with them in

relation to the investigation and subsequent prosecution?

2. Was the victim responsible by provocation or otherwise for the offence giving rise to the injuries?
3. The time limit in which to make such an application is three months from the incident giving rise to the injuries. This time limit will be extended in cases where the applicant can show grounds for such treatment, ie they were hospitalised or they were unaware of the Scheme.

An application will be submitted to a single Member of the Tribunal and will be heard by way of oral hearing before three Members of the Tribunal.

It is highly desirable that members of the public seek legal advice in the preparation and assembly of their claims because of the potential for higher awards in certain cases, full teams of Solicitors and Counsel will appear before the Tribunal.

To date, the Tribunal has paid out circa €4.5 million in 2006 and 2007 and received approximately 300 applications in each of those years.

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