

The Insurance Policy for all Quebecers

IN THE EVENT OF INJURY OR DEATH
DUE TO AN AUTOMOBILE ACCIDENT



This is not a text of law. For questions of a legal nature,
please refer to the *Automobile Insurance Act*.
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Foreword

Under Québec's public automobile insurance plan, all residents are covered for injury or death due to an automobile accident, regardless of:

- » **who is at fault;**
- » **where the accident occurs in the world.**

The main goal of the province's automobile insurance plan is to ensure fair compensation for all accident victims, while keeping administrative costs down.

This document has been prepared by the Société de l'assurance automobile du Québec (SAAQ) to give you a clear picture of the way the plan operates and the coverage it provides.

Keep it in a safe place: it's your insurance policy.

You will find a **Compensation Table** at the end of this brochure, showing the maximum amounts payable by the SAAQ in connection with an automobile accident.

KEEP IT
IN A SAFE PLACE:
IT'S YOUR
INSURANCE POLICY.

Coverage

WHO IS COVERED BY THE PLAN?

All Québec residents who are injured or killed in a motor vehicle accident, whether as:

- » a driver;
- » a passenger;
- » a pedestrian;
- » a cyclist;
- » a motorcyclist;
- » or any other road user.

IS THE PERSON AT FAULT ENTITLED TO COMPENSATION?

Anyone who sustains bodily injury in an accident is compensated **regardless of whether or not that person is responsible for the accident**. Proceedings before civil courts are therefore eliminated.

However, people who commit driving-related *Criminal Code* offences (impaired driving, hit-and-run, dangerous driving, etc.) are still subject to prosecution.

Furthermore, if a person is imprisoned for a driving-related *Criminal Code* offence listed in the *Automobile Insurance Act*, the SAAQ reduces the amount of any income replacement indemnity paid during this period. For example, this indemnity is reduced by 75% if the person has no dependants. If the incarcerated accident victim has dependants, the rate is set according to their number, and paid directly to them.

WHAT ABOUT PROPERTY DAMAGE?

The *Automobile Insurance Act* requires motor vehicle owners to hold third-party liability insurance of at least \$50,000. This protection, available from private insurers, covers any property damage that might be caused to another party.

Accident victims who sustain property damage may sometimes find themselves without coverage, for example because of a hit-and-run or insolvency of the person responsible for the accident. The SAAQ compensates those accident victims for property damage if the accident occurred in Québec, under certain conditions. The coverage provided by the SAAQ in no way replaces third-party-liability insurance for collision, theft, multiple risks or damage to property other than your vehicle. Rather, it supplements the plan administered by the SAAQ for bodily injury sustained in a road accident.

In the case of a hit-and-run or insolvency, the SAAQ may pay up to \$10,000 in compensation for property damage, on top of interest and legal fees.

ARE QUEBECERS COVERED OUTSIDE QUÉBEC?

Whether or not they are at fault, Québec residents injured in a road accident while they are outside Québec are entitled to the same compensation as if they were in Québec.

However, Quebecers **who are responsible for the accident** may be sued in the courts of the jurisdiction where the accident occurred for compensation of bodily injury and property damage. In this case, they are protected by their third-party-liability insurance, which is mandatory for travel in Canada and the United States. You should check with your private insurer to make sure that your insurance protection is sufficient to cover these damages. If you plan on driving elsewhere in the world, you should choose the proper policy to ensure sufficient protection.

If legal recourse is possible under the laws of the jurisdiction where the accident occurred, Québec residents have the right to sue the party responsible for the accident.

Before suing, however, Québec residents must notify the SAAQ, which has a right of priority that it may decide to exercise. Moreover, Québec residents should first inform themselves about the legal fees they might incur and weigh these against any sum of money they could be awarded.

WHAT ABOUT NON-RESIDENTS INVOLVED IN AN AUTOMOBILE ACCIDENT IN QUÉBEC?

The public automobile insurance plan covers non-residents travelling on Québec roads **in a motor vehicle registered in Québec** in the event of injury or death.

If their vehicle is not registered in Québec, non-residents qualify for compensation in inverse proportion to their share of responsibility for the accident. Therefore, the greater their share of responsibility, the lower the compensation they will receive from the SAAQ (e.g. a non-resident bearing 20% of responsibility will be entitled to 80% of the benefits provided under the plan). However, if the person's home jurisdiction has entered into a reciprocal agreement with the SAAQ, the terms of that agreement will be applied.

How to File for Compensation with the SAAQ

After the accident, you or your representative should contact the SAAQ as soon as possible by calling this telephone number:

1 888 810-2525

The SAAQ will provide all the necessary documentation, including the **Claim for Compensation** form. This form is also available in all SAAQ service centres and on the SAAQ's Web site.

The SAAQ provides assistance and information free of charge as needed to assist in preparing a claim. An SAAQ representative could even go to the hospital or your home to help you complete the forms and documents.

TIME LIMIT

You have **three years** from the date of the accident or the first signs of accident-related bodily injuries to file a claim for compensation. You also have three years from the date of death to file a claim for death benefits. However, the sooner you file your claim, the sooner your claim will be processed.

THESE INDEMNITIES
ARE NOT TAXABLE.

Compensation Paid by the SAAQ

The SAAQ pays various types of indemnities to people injured in an automobile accident and to the surviving family of accident victims who die in an accident. These indemnities are not taxable, although they may affect some income tax credits or social program benefits. Nor is compensation subject to seizure, except for income replacement indemnity payments, which may be seized if a person fails to make support payments.

Benefits may take the form of a pension paid at regular intervals, a lump sum or the reimbursement of accident-related expenses.

ANNUAL INDEXATION OF INDEMNITIES

To keep up with the cost of living, income replacement indemnities are indexed each year on the anniversary date of the accident. Many other indemnities are indexed on January 1 every year.

DEPENDING ON THE
SITUATION, ACCIDENT
VICTIMS MAY BE ENTITLED
TO ONE OR MORE
INDEMNITIES.

Compensation for Injuries

DISABILITY AND ENTITLEMENT TO COMPENSATION

Any injury sustained in an automobile accident that prevents the accident victim from resuming employment or regular activities may entitle that person to various types of compensation as long as the disability persists.

Entitlement to compensation is based on the connection between the accident and the injuries sustained, the injury-related consequences that the accident victim experiences following the accident and that person's fitness to resume employment or regular activities.

Types of indemnities

Depending on the situation, accident victims may be entitled to one or more of the following indemnities:

- » income replacement indemnity;
- » lump-sum indemnity for students;
- » lump-sum compensation for non-pecuniary damage;
- » death benefits:
 - to a surviving spouse,
 - to dependants,
 - to a disabled dependant (additional amount),
 - in the case of a deceased person leaving no spouse or dependants,
 - for funeral expenses;
- » indemnity for care expenses:
 - care allowance,
 - reimbursement of expenses;
- » indemnity for substitute labour costs (family business).

Accident victims may also be entitled to the reimbursement of their medical and paramedical expenses.

The SAAQ may also take certain steps to contribute to the rehabilitation of an accident victim.

Most indemnities can be deposited directly into a claimant's bank account. The **Compensation Table** included at the end of this brochure shows the maximum amounts payable.

Occupational categories

Entitlement to compensation for disability is based on dividing accident victims into eight categories:

- » full-time employees;
- » temporary or part-time employees;
- » individuals who are unemployed but able to work;
- » individuals under age 16;
- » students age 16 or over in full-time attendance at an educational institution;
- » individuals age 64 or over who are employed;
- » individuals age 65 or over who are not employed;
- » individuals permanently unable to hold employment.

Employment held by a self-employed or salaried worker is classified as full-time, part-time or temporary, as the case may be.

INCOME REPLACEMENT INDEMNITY

This indemnity is paid by the SAAQ in compensation for real loss of income by accident victims who become unable to hold employment or perform regular activities.

These people may be:

- » full-time employees;
- » temporary or part-time employees.

This indemnity is also paid to people who, during the first 180 days after an accident, would have been employed were it not for the accident, or were deprived of Employment Insurance benefits (formerly called Unemployment Insurance benefits) or employment assistance payments from the Ministère de l'Emploi et de la Solidarité sociale. Such people include accident victims who were unemployed but able to work.

Income replacement indemnities are paid every 14 days for the period of disability, (**except** for the first seven days after the accident, including the day of the accident).



The amount of the indemnity is generally calculated on the basis of the employment held by the accident victim at the time of the accident.

Beginning on the 181st day after the accident

To avoid penalizing, in the longer term, accident victims who did not suffer a real loss of income due to the accident because they were not holding full-time employment (they held temporary or part-time employment or were unemployed), their disability is reassessed from the 181st day following the accident on the basis of their ability to work. This covers:

- » temporary or part-time employees;
- » people under age 65 at the time of the accident, who were not employed but were able to work;
- » people who were not employed at the time of the accident, but who would have held employment had the accident not occurred or who would have been deprived of Employment Insurance benefits.

As of the 181st day following the accident, these accident victims may receive an income replacement indemnity based on a hypothetical employment they would have been fit to hold.

When determining this employment, the SAAQ takes into account:

- » physical and intellectual abilities at the time of the accident;
- » training;
- » work experience.

The employment determined for an accident victim must be full time, unless the person does not have the physical and intellectual abilities to hold such an employment.

Duration

An income replacement indemnity is generally paid to accident victims for the duration of the disability period resulting from the accident, as long as they comply with the conditions relating to their occupational category.

Full-time, temporary or part-time employees are entitled to income replacement indemnity payments for as long as they are unable, because of accident-related injuries, to resume the employment they normally held when the accident occurred or to hold the employment determined for them on the 181st day after the accident.

People under age 16 and those 16 or over in full-time attendance at an educational institution who also held employment at the time of the accident are entitled to an income replacement indemnity as long as that employment would have remained available and they are unfit to hold it because of the injuries sustained.

People who are deprived of employment insurance benefits because of an automobile accident are entitled to an income replacement indemnity for as long as they do not qualify for those Employment Insurance benefits because of the accident.

Depending on the type of occupation, other conditions may apply.

From the third year after the date of the accident

Two years after the accident, people who become able to work again but are left with diminished abilities because of the accident are attributed a hypothetical employment compatible with their abilities.

Their income replacement indemnity is adjusted accordingly.

In case of relapse

An accident victim's file may be reopened even after the end of a disability period and the end of indemnity payments. Accident victims who suffer a relapse in connection with the accident are again entitled to the indemnities available in their case.

JOB LOSS INDEMNITY

The SAAQ may decide to extend payment of an income replacement indemnity to accident victims who lose their job **because of the accident**, even though they are deemed fit to hold the employment in question. This financial support may be paid for a maximum of one year as of the date of the SAAQ's decision.

However, this extension does not apply in the case of an accident victim who held temporary employment when the accident occurred.

LUMP-SUM INDEMNITY FOR THE LOSS OF AN ACADEMIC YEAR OR TERM

A lump-sum indemnity is payable to students who lose a school year or academic term because of injuries sustained in an automobile accident. It is paid at the end of the lost school year or term, and ceases on the date studies underway at the time of the accident were scheduled to end, or at the end of the school year during which the accident victim turns 16, as the case may be.

ACCIDENT VICTIMS
WHO SUFFER A RELAPSE
IN CONNECTION WITH
THE ACCIDENT ARE
AGAIN ENTITLED TO THE
INDEMNITIES AVAILABLE IN
THEIR CASE [...]

CARE EXPENSES

Care allowance

An indemnity for care expenses is paid to an accident victim whose **main occupation** was taking care of children under the age of 16 or disabled persons, without remuneration.

The accident victim must have been unemployed but able to work or holding part-time employment (less than 28 hours/week) at the time of the accident in order to qualify.

The amount of the indemnity depends on the number of children or disabled people in the accident victim's care.

Reimbursement of care expenses

Care expenses may also be reimbursed **to accident victims who become unable to take care of children under age 16 or disabled persons** because of the accident. Care expenses cannot be reimbursed to someone already receiving a care allowance.

Care expenses may also be reimbursed to accident victims who, despite being able to care for children under age 16 or disabled persons, are occasionally unable to do so because they must receive medical care or undergo an examination at the SAAQ's request.

Reimbursement is **paid upon presentation of supporting documents**, up to the maximum weekly amounts, and is subject to certain conditions.

REIMBURSEMENT OF OTHER EXPENSES

Upon receiving supporting documents, the SAAQ reimburses certain other expenses incurred because of an accident if they are not already covered by a social security plan, subject to the terms set by regulation.

Qualifying expenses relate to:

- » personal home assistance;
- » substitute labour costs for a family business (the remuneration paid to someone for replacing the accident victim, who had been working without pay);
- » escorting an accident victim for treatment or to a medical examination requested by the SAAQ;

- » medical and paramedical care, as well as travel or lodging expenses incurred to receive that care;
- » the purchase of eyeglasses, prostheses or orthopedic devices;
- » ambulance transportation;
- » replacement, cleaning or repair of clothing worn that was damaged in the accident;
- » purchase of medication.

LUMP-SUM INDEMNITY FOR LOSS OF ENJOYMENT OF LIFE, MENTAL SUFFERING AND PAIN



Injuries sustained in an accident and any related functional or esthetic impairments may result in after-effects such as loss of enjoyment of life, mental suffering and pain.

To compensate such after-effects, the SAAQ may pay a lump-sum indemnity which varies according to the severity of the impairment and after-effects. To establish the amount of the indemnity, an accident victim's medical condition is assessed on the basis of the information on file and, where necessary, by one or more expert physicians in the relevant fields.

Payment is generally made as a lump sum. However, an interim payment may be made before the final assessment of the accident-related injuries, if the medical information on file so warrants.

REHABILITATION

The SAAQ may take steps to contribute to an accident victim's rehabilitation, so as to reduce or eliminate the disability resulting from bodily injury and facilitate the return to a normal life and the reintegration of the labour market.

For instance, the SAAQ may reimburse the cost of alterations to a home or vehicle or job training and professional reintegration expenses if it considers such measures essential to the rehabilitation of an accident victim.

Death Benefits

SURVIVING SPOUSE

The surviving spouse is entitled to one of the following benefits, whichever is higher:

- » a lump-sum benefit based on the accident victim's age at the time of the accident and his or her gross annual income (on the basis of which an income replacement indemnity would have been calculated);
- » the minimum indemnity indicated in the table included at the end of this brochure.



Compensation may be paid in the form of a single payment or in regular instalments over a period of up to 20 years.

SURVIVING SPOUSE WHO IS DISABLED

If the accident victim was under age 45 at the time of death, the disabled spouse qualifies for an indemnity multiplied by the maximum factor (5), as shown in the table found at the end of this brochure.

THE AMOUNT IS
PAID TO THE ESTATE
IF THE ACCIDENT VICTIM
WAS OF FULL AGE.

OTHER DEPENDANTS

Surviving dependants, other than the spouse, are entitled to a lump-sum indemnity calculated according to their age at the time of the accident victim's death. Children of a single parent are entitled to equal shares of the death benefit that would have been paid to a surviving spouse, in addition to their own indemnity. As is the case with compensation paid to a surviving spouse, the indemnity may take the form of a single payment or regular instalments over a period of up to 20 years.

A dependant who is disabled at the time of the accident victim's death is entitled to an additional lump sum.

NO SURVIVING DEPENDANTS

In the case of a deceased accident victim who was a **minor** and who had no spouse or dependants, the SAAQ pays a lump-sum benefit to that person's parents, or to the estate, if neither parent is alive. The amount is paid to the estate if the accident victim was of **full age**.

LUMP SUM TO COVER FUNERAL EXPENSES

To offset funeral expenses, the SAAQ pays a lump sum to the estate of all accident victims who die because of their accident.

Types of Accidents Excluded

No compensation is paid for bodily injury or death in connection with any of the following situations:

- 1. An accident that occurs in an automobile race, contest or show** on a track closed to traffic, whether the accident victim or victims are drivers, passengers or spectators, and regardless of whether or not the automobile that caused the accident was taking part in the event;
- 2. An accident involving a snowmobile or other off-road vehicle**, unless the collision involves a moving motor vehicle that is not excluded from the plan (e.g. collision between a snowmobile and an automobile);
- 3. An accident that occurs off a public highway involving an equipment vehicle, a trailer or a farm tractor**, unless the collision involves a vehicle that is not excluded from the plan (e.g. a tractor colliding with an automobile);
- 4. Injury caused by equipment which can function independently from the vehicle of which it is a part, when that vehicle is not in motion on a public roadway** (e.g. snowplow blade installed on a truck);
- 5. Injury sustained during maintenance, repair, modification or improvement of an automobile, or caused by the independent act of an animal carried in an automobile.**

In these cases, to receive compensation, the vehicle or equipment owners or operators must take out appropriate coverage from a private insurer for any bodily injury and property damage that might be caused to themselves or others by the vehicle or equipment.

However, if an accident victim who sustained bodily injury in an accident covered under situation 2 or 3 above receives a favourable final ruling in Québec further to the accident, that person has one year in which to ask the SAAQ to comply with the ruling. The SAAQ may then pay the accident victim up to \$50,000 on top of interest and legal fees.

Special Cases

ON-THE-JOB AUTOMOBILE ACCIDENTS

Any claim for compensation in connection with automobile accidents that occur on the job must be submitted to the Commission de la santé et de la sécurité du travail (CSST) or to another equivalent agency.

A claimant who has been turned down by the CSST or another equivalent agency may then file a claim for compensation with the SAAQ, enclosing the letter of refusal.

VICTIMS OF ASSAULT

The victim of an assault in which an automobile was used as a weapon to cause injury or to threaten violence, either directly or indirectly, has the option of being compensated under either the *Crime Victims Compensation Act* or the *Automobile Insurance Act*.

INDIVIDUALS INJURED WHILE ASSISTING SOMEONE IN DISTRESS

A person injured by an automobile while assisting someone in distress may choose to receive compensation under either the *Act to promote good citizenship* or the *Automobile Insurance Act*.

A person who chooses to be compensated under either the *Crime Victims Compensation Act* or the *Act to promote good citizenship* must contact the nearest CSST regional office.

Application for Review

A person who is dissatisfied with a decision rendered by the SAAQ may apply for a review of the case by the administrative review office. Then, if need be, that decision can be challenged before the Administrative Tribunal of Québec.

TIME LIMIT FOR ISSUING A REVIEW DECISION

The SAAQ has 90 days to render its decision from the date it receives an application for review.

This time limit can be extended if:

- » the person wishes to make comments or submit documents in support of the application. The SAAQ has an additional 90 days to render its decision from the date it receives the comments or documents;
- » the SAAQ deems it necessary to obtain documents or request an assessment by a health professional; the SAAQ then has a further 90 days to render its decision.

AFTER THOSE TIME LIMITS...

If a review decision has not been rendered, the person can:

- » await the SAAQ's decision. As of the date of / the decision, the person will have 60 days to challenge the decision before the Administrative Tribunal of Québec; or
- » contest the decision directly before the Tribunal without waiting for the SAAQ's decision.

A Brief Example

Vincent worked full time as an office clerk, employment that brought in a net annual income of \$18,000.

On his way home one afternoon, he lost control of his car on a slippery road and caused an accident involving three vehicles. Vincent sustained a fracture to his cervical spine, which left him unable to work for four months. To help him recover, he received ten physiotherapy sessions.

WAS VINCENT ENTITLED TO COMPENSATION?

Vincent was entitled to compensation by the SAAQ for his injury. As for property damage, Vincent was compensated by his private insurer.

Both financial losses and non-financial after-effects (such as loss of enjoyment of life, pain and mental suffering) are taken into consideration when assessing the consequences of an injury for compensation purposes.

Income

Vincent's cervical fracture prevented him from returning to work for four months. Starting after the first seven days, he was paid an income replacement indemnity equivalent to **90% of the net income he derived from his employment.**

Treatment expenses

Vincent's treatment expenses were reimbursed by the SAAQ. These included physiotherapy sessions in a private clinic, medication and other medical supplies, and travel expenses incurred for treatment and medical follow-up.

Loss of enjoyment of life, mental suffering and pain

After-effects such as pain, mental suffering, and loss of enjoyment of life are real even though there may be no associated financial loss. If Vincent were to remain with any lifelong functional or esthetic impairment, he would be entitled to lump-sum compensation.

Even if Vincent were to be left with no significant impairment, he could still be entitled to lump-sum compensation for temporary after-effects.

The amount of any lump-sum indemnity is determined according to the severity of the after-effects resulting from the impairment and injuries sustained, in accordance with the applicable regulations.

What To Do in the Event of an Accident

1. Call the **police** so an accident report can be made.
2. See a **physician** as soon as possible and have all symptoms of your accident-related injuries entered in the medical report.
3. File a claim for compensation with the **SAAQ** as soon as possible by calling the following toll-free number: **1 888 810-2525**. The SAAQ will send you a claim form.
4. Notify your private insurer of any property damage.

If you are seriously injured outside Québec, in Canada or in the United states, call 1 877 229-0536 (toll free). If you are anywhere else in the world, call 418 528-4579 (collect call).

If injuries sustained in an accident that occurred outside the province require lengthy hospitalization or place you in a complex situation, the SAAQ will do everything possible to bring you back to Québec, if your state of health allows it.

**Société de l'assurance
automobile**

Québec

