

INCOME PROTECTION PAYMENT AND PROPERTY SETTLEMENT

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What does the court do in a division of property when one spouse has received a large lump sum payment as a result of a serious health condition or personal injury. Is it 'my injury, so my contribution'? Each situation will have its own unique facts. Here is an example of what the court did in one recent case...

In a recent Family Court case, the Appeal court had to consider the trial judge's decision made regarding the contribution of a lump sum from an income protection insurer following the wife suffering a stroke. The Appeal court agreed with the trial judge that the wife for her personal injury payment of \$235,152, from a net property pool of \$1.8 million receive an adjustment, to give her a total of 53%.

In considering the adjustment to the wife, the court noted that the insurance payment received by the wife was for total and permanent disability. It was compensation for her not being in a position to receive income for the rest of her working life.

As the wife then used the payment to support the family prior to separation it was treated as a significant contribution by her.

In considering the case, the court noted there were many different scenarios that could exist in cases of injury payments such as, the contributions being made by one party, by the parties equally, or by the parties jointly however with one party making a greater contribution. In each situation it is important to consider the personal injuries payment as a "contribution" alongside all of the others, which can include (for example) the joint decision to take out an insurance policy and the care provided to the family following the health condition or injury.

Just as no two families are the same, no two cases are the same. It is therefore important that specialised advice is obtained in relation to each party's property settlement entitlements; which will have regard to all contributions that have been made in the relationship.

Need family law advice?

To ensure you get what you deserve, we recommend that you seek professional legal advice on income protection and property settlement matters. Speak with one of our experienced family lawyers at your initial fixed-price consultation. Call us on (07) 3221 4300, or complete online form [here](#) to book your appointment.

