

NEW JERSEY

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1. In your state, what are the categories of damages that are available in tort?

New Jersey allows for both economic and non-economic damages, as well as punitive damages. Non-economic damages include pain and suffering, emotional distress and loss of consortium.

2. Are there any limitations or caps on recovery in tort actions?

New Jersey is a modified comparative fault state. In a negligence action, parties found to be more than 50% responsible cannot recover at all and parties found to be less than 50% responsible have their recoverable damages reduced by their proportion of fault. There is no limit if a party is found to be 60% or more at fault. There are no strict caps on pain and suffering damages or medical malpractice awards.

Punitive damages are capped at the greater of \$350,000.00 or 500% of compensatory damages.

3. Are attorneys' fees available in tort actions? If so, under what circumstances?

Under Court Rule 4-58, a party may make an Offer of Judgment to settle the pending case. If the offer is rejected and the plaintiff proceeds to trial and is awarded 120% or more of the offered amount, attorney's fees and litigation costs incurred as a result of proceeding to trial may be assessed against the defendant.

4. Are there any instances in tort actions when pre-judgment interest is available for recovery?

Simple interest is available, running from the date of the action is instituted or 6 months from when the cause of action arises, whichever is later. The court may suspend the running of pre-judgment interest in exceptional cases.

Rule 4-58 also allows for prejudgment interest at 8% under the same criteria as attorney's fees.

- 5. In your state what proof is necessary to establish a right of recovery for economic damages, i.e. lost wages, medical expenses, etc.?**

No special proof is required.

- 6. Is there any distinction in your state relative to recovery for economic versus non-economic damages?**

No, other than the cap on punitive damages.