

Finger Amputation Cases - Pain and Suffering Awards Range from \$85,000 to \$2,000,000

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The first thing many new mothers ask, even before seeing their newborns, is: "Are there 10 fingers (and toes)?" Of course, the answer is almost always "yes." Fingers can, though, be lost - amputated - later in life and when that happens it's usually due to an accident with a lawnmower or a power saw. And then the lawsuits follow.

As usual, we focus here on how pain and suffering is evaluated by juries and judges in New York injury cases. And as you might have guessed already, this post will discuss **recent finger amputation cases**. While that seems like a narrow topic, and one that might result in a small range of monetary recoveries, the opposite is the fact. That's because some cases involve amputations of just one (or just part of one) finger; while others involve two, three or more fingers. Then, there's the issue of which finger - we all know that thumbs, for example, are much more important to function than pinky fingers.

For a review of hand and **finger anatomy**, see our post on hand injury pain and suffering verdicts [here](#) which includes diagrams of the phalanges (the finger bones).

The most recent case, **Nisanov v. Black & Decker (U.S.), Inc.** involved a 31 year old man who was using an old electric corded lawnmower. After mowing the lawn one day, Mr. Nisanov turned the mower upside down and began to remove grass clippings that had accumulated. Despite a warning on the machine of which he was aware, he did not unplug the mower and its blades restarted while he was removing the clippings. He suffered **total amputations of his left hand's index, middle and right fingers, his left pinky was partially severed** and his left thumb was lacerated. The jury found that Mr. Nisanov's pain and suffering damages totaled **\$2,000,000** (\$600,000 past, \$1,400,000 future) but it also found that Black & Decker was negligent in its design of the mower but it also found that Mr. Nisanov was 90% at fault for his own injury. Therefore, his net recovery was \$200,000 (10% of the pain and suffering sum).

Do not stick your hand into a lawnmower or you may come out missing fingers:



Nisanov made a post-trial motion challenging the 90% comparative negligence finding against him as well as the jury's \$600,000 past pain and suffering verdict. He contended that \$600,000 was too low for his pain and suffering for the five year period from the date of the accident to the date of the verdict. He did challenge the future pain and suffering figure.

On April 9, 2009, the [trial judge issued a decision on the motion in the Nisanov case](#) finding that the \$600,000 past pain and suffering award was within the range of reasonableness and would not be modified. Also, the judge declined to disturb the jury's finding that plaintiff was 90% at fault. There will be no appeal.

In [McKeon v. Sears, Roebuck & Co.](#), a carpenter had **four fingers of his dominant hand fully amputated** and reattached. There, the jury verdict of **\$1,350,000** (\$810,000 past, \$540,000 future) was upheld by the appellate court. That decision was relied upon by the plaintiff in the Nisanov post-trial motion for the proposition that \$600,000 was unreasonable for five years of pain and suffering. While the injuries appear to have been similar, the \$210,000 difference between the two past pain and suffering awards was not significant enough for a trial judge or an appellate court to step in and modify upward. The courts will modify upward or downward only when the jury verdict is not in a **range** of figures that is reasonable.

Here are the other important finger amputation cases insofar as pain and suffering damages is concerned:

- [Hudson v. Lansingburgh Central School District](#) - **\$240,000** Rensselaer County jury verdict for pain and suffering (\$90,000 past, \$150,000 future) affirmed for a 14 year old boy who cut off a portion of the middle finger of his nondominant hand while operating a jointer-planer in technology class. He underwent **surgery to amputate the finger** at the proximal interphalangeal joint, which separates the lower and upper halves of the finger. Plaintiff was found to be 35% at fault so the his actual recovery was reduced to \$156,000.
- [Bradshaw v. 845 U.N. Limited Partnership](#) - **\$85,000** (\$50,000 past, \$35,000 future) upward modification by appellate court for pain and suffering involving the **amputation of the distal portion of plaintiff's ring finger** following a workplace accident in which a rebar caught on and partially severed the finger. The Manhattan jury had returned a verdict of \$50,000 for past pain and suffering but nothing at all for for the future. The appeals court found \$35,000 should be added because the plaintiff would experience hypersensitivity in the remaining portion of the finger for the balance of her life.
- [Leon v. J&M Peppe Realty Corp.](#) - **\$850,000** pain and suffering verdict (\$100,000 past, \$750,000 future) affirmed by appeals court for a 26 year old carpenter who suffered a **partial amputation of his three middle fingers** while working on a circular saw like this:



The Bronx County jury had awarded plaintiff \$100,000 for his four years of past pain and suffering plus \$1,500,000 for 40 years in the future. The trial judge, though, reduced the future award to \$750,000 and it's the trial judge's \$850,000 total that was affirmed by the higher court.

- **Huang v. Cherry Avenue Corp.** (Index # 12201/05; Supreme Court, Queens County; 12/5/08) - **\$467,700** pain and suffering verdict (\$200,000 past, \$267,700 future) for a 42 year old mason in a construction site accident in which the **tip of his left, nondominant hand's index finger was detached** after it became caught between a hoist's hook and the hoisted material. Doctors were not able to reattach the detached portion of plaintiff's finger and they shaved a portion of the exposed bone and sewed skin into the open wound.
- **Inside Info:** Plaintiff was willing to settle before trial for \$325,000 but defendants' offer was only \$75,000.
- **James v. Queens Long Island Medical Group** (Index # 17741/03; Supreme Court, Queens County; 3/8/07) - **\$950,000** pain and suffering verdict (\$350,000 past, \$600,000 future - 19 years) for a 7 year old girl who fell at school and sustained a chip fracture of the proximal phalanx of the ring finger of her left, nondominant hand. Doctors splinted and wrapped her hand but when she returned for follow-up medical treatment two weeks later her finger was necrotic and she had to undergo a surgical **amputation of the distal phalanx** followed by several months of physical therapy. The jury found that the doctors had committed medical malpractice. The defense contended that the \$950,000 verdict was excessive and made a post-trial motion to it set aside . During the pendency of that motion, the **parties settled the case for \$700,000.**
- **Silverman v. State of New York** - **\$650,000** judge's decision for pain and suffering (\$250,000 past, \$400,000 future) for a 44 year old prison inmate injured in a carpentry class while working with a table saw that did not have a safety guard. Plaintiff sustained **amputations of the digits of his thumb, index, middle and ring fingers** of his left, nondominant hand. The award was reduced by one-half due to plaintiff's contributory negligence.

Finger amputation accidents are typically quite gruesome and can result in very significant pain and suffering verdicts that are sustainable. On the other hand (pun not intended), these cases often involve accidents in which there is a very significant amount of culpability on the plaintiff's part and then the award will be reduced accordingly. We will continue to follow new finger amputation cases as they arise.