

Excerpt from A worker's Guide to Compensation Principles of Common Law and Work Injury Compensation Act (WICA)

1.1 What Are The Differences Between A WICA And Common Law Claim?

	WICA	Common Law
Fault	Not fault based.	Fault based.
Compensation	<p>Compensation is generally much lower.</p> <p><u>Qualifications on Compensation:</u> Compensation is based on permanent incapacity. Coverage of medical expenses and medical leave wages are subject to a maximum cap.</p>	<p>Damages (compensation) are generally much higher even if you are partially at fault.</p> <p><u>Qualifications on Compensation:</u> Damages are awarded even if there is no permanent incapacity. There is also no maximum cap for medical expenses or lost wages.</p>
Proof Required	Workers only need to prove that the injury or disease was due to / sustained in the course of work.	<p>Common Law claims require proof that someone was at fault. Claims are generally made against:</p> <ol style="list-style-type: none"> 1. <u>Your own employer for breach of an employer's duty.</u> For example, injuries caused by the employer's failure to provide a safe and proper place of work, a safe system of work with adequate supervision, and adequate tools/manpower for the job. NB: This duty continues even if you are deployed to work another person's worksite. 2. <u>A 3rd Party for Negligence:</u> For example, injuries caused by a road traffic accident or by another contractor at the worksite.
Length of Time	Most WICA claims can be resolved within 6 months . ¹	Common Law claims tend to take a longer time to resolve because you will

¹ <https://www.mom.gov.sg/workplace-safety-and-health/work-injury-compensation/employees-how-to-claim>

	<p>NB: However, some claims might take longer if there are objections to be filed, or if the Doctor needs to wait for the injury to stabilize before assessing permanent incapacity.</p>	<p>have to prove your case, especially if Court proceedings commence.</p> <p>However, there are two notable points:</p> <ul style="list-style-type: none"> • You will be awarded interest on your damages at 5.33% p.a. for pain and suffering and 2.67% p.a. for other expenses such as medical expenses/ transport. • You may also request for an interim payment to be made upon proving that the Defendant was substantially liable for the injury and has the means to pay.
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1.2 How Do I Decide Whether To Claim Under WICA Or Common Law?

WICA	Common Law
<p>Liability:</p> <ul style="list-style-type: none"> • Advisable to claim under WICA if you / no one is at fault. • WICA is designed to provide some compensation in these situations. 	<p>Type of Injuries:</p> <ul style="list-style-type: none"> • Advisable to claim under Common Law for injuries that do not result in permanent disability.
<p>Time:</p> <ul style="list-style-type: none"> • Advisable to claim under WICA if you are concerned with receiving compensation quickly, even if this may mean a lower pay out. 	<p>Type of Injuries/ Damages likely to be higher:</p> <ul style="list-style-type: none"> • Advisable to claim under Common law for more fatal claims <i>if you can establish fault on the part of another party</i>, since there is no cap on the quantum of damages that can be awarded.

Further Notes:

- If you are unsure as to whether you should be claiming under WICA or Common Law, take the precaution of consulting a Lawyer first, as soon as possible.
- If a 3rd Party other than your Employer was to blame for your injuries (i.e., if the injuries were a result of a road traffic accident), you may wish to consider commencing a Common Law claim with your Employer against the 3rd Party.
 - You can enter into an arrangement with your employer called a non-recourse loan, so that you can include their expenses towards your medical leave wages and / or medical expenses

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