

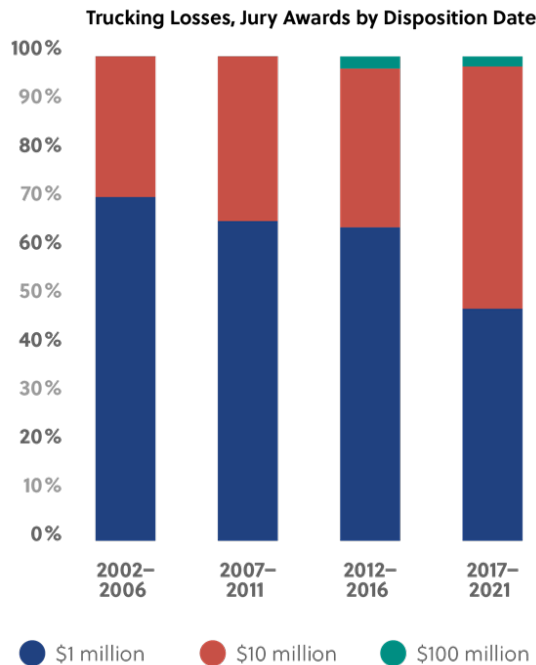


A Henderson Brothers® Whitepaper
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Trucking Accident Lawsuit Costs Continue to Rise

Eight-figure and beyond damages continue to be paid out to plaintiffs as a result of lawsuits related to trucking accidents on US roads. The increase in the awards continues a trend which has produced record settlements over the last four years. As trucking companies face tighter insurance markets costly litigation will continue to play a major factor in the ability to place coverage and protect business operations.

As damages awards continue to rise in trucking claims, the impact on trucking and transportation companies' insurance premiums and ability to procure adequate policy limits are being adversely affected. The percentage of trucking awards exceeding \$10 million increased 15% over the past four years, and these large losses account for 35% of trucking losses over \$1 million from 2017 to 2021. This is a notable increase from the prior eight years when trucking awards over \$10 million accounted for 20% of losses over \$1 million, according to Advisen loss data.



Awards over \$100 million account for a greater frequency of losses in recent years, although they still comprise a relatively low percentage of trucking losses overall.

Why Awards Are Increasing

Corporate mistrust, an increase in litigation funding, and a general sense of social pessimism all contribute to the rising severity of jury awards.

One of the factors driving social inflation is litigation funding. Litigation funding is when

a third party provides resources to attorneys to finance a lawsuit. In exchange, the third party receives a portion of any settlement or jury award.

In the past, the steep cost of attorney fees would often scare plaintiffs away from taking a claim to trial. But, through litigation funding, most or all of the costs associated with litigation are covered by a third party, which has increased the volume of cases being pursued.

The overall public sentiment toward large businesses and corporations is deteriorating, and anti-corporate culture is more prevalent than ever. This has had a considerable impact on how businesses are perceived by a jury in court, and organizations are held to a high standard for issues related to the way they conduct their business. In fact, juries are increasingly likely to sympathize with plaintiffs, especially if a business's reputation has been tarnished in some way in the past.

Compounding this issue, there's an increasing public perception that businesses can afford the cost of any damages amount. This means juries are likely to have fewer reservations when it comes to prosecuting companies to the fullest extent of the law. And given the way that nuclear verdicts, juries are often desensitized to plaintiff awards, making trial defense both costlier and riskier.

Increasing insurance prices can make it difficult for trucking firms to properly insure their fleets. To cut costs, many trucking companies are scaling back on excess insurance, putting them at greater risk for bankruptcy should an incident occur.

How Steep Awards Affect Trucking Employees

Sizable losses like these have a direct impact on insurance pricing. Excess trucking liability has been especially affected as large auto losses threaten the profitability of the trucking industry. The change is reflected in increasing rates, decreasing capacity, and, in some cases, multiple insurers involved at low levels of excess layers.

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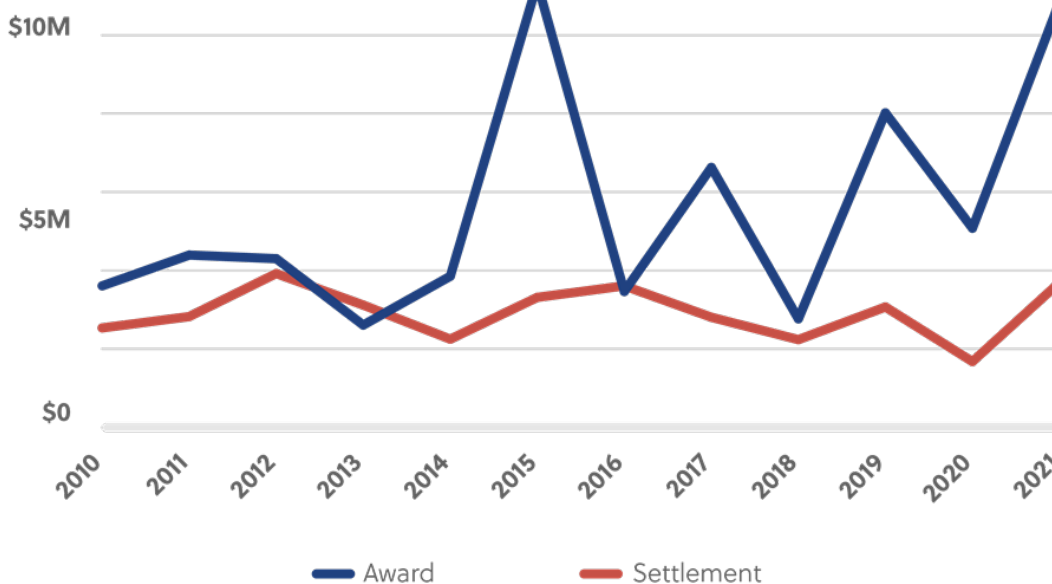
The difference in severity between awards and settlements is quite significant for trucking losses. From 2010 to 2021, the median cost of a trucking settlement remained relatively stable—oscillating between \$1.5 million and \$3.5 million. Over the same time period, trucking awards fluctuated dramatically—with a median cost of \$11 million in 2015 and 2021.

Fewer losses in 2021 may have caused the dramatic increase in median award severity for that year. This is due to a data lag and will likely moderate as more cases are added. Similarly, the decrease in the median severity in 2020 may have been caused by the pandemic, which halted trials by jury for a substantial period of time.

While it's impossible to completely eliminate the threat of litigation, it's important to take the proper steps to ensure your business is prepared for a lawsuit. This is increasingly crucial as social inflation continues to drive up the cost of claims within the trucking industry.

If you would like to further discuss the risks your trucking operations are exposed to including the risk of social inflation in the courtroom, your Henderson Brothers team is here to help. We have a team of experts ready to assist you with your risk management practices and DOT compliance processes which can help to limit your exposure to large losses and maintain your business' profitability.

Median Cost of Trucking Loss by Disposition Date



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