

Baremo Guide



Introduction

The “Baremo” is the compulsory compensation system used for the calculation of damages suffered by victims of road traffic accidents in Spain.

The Baremo was first introduced into Spanish Law in 1995 before receiving significant changes which came into force on 1st January 2016. It is updated each calendar year, and each annual version applies to amounts settled within its respective calendar year.

For example, an accident that occurred in 2015 but was settled in 2016 would base the compensation on the 2016 Baremo.

The Baremo from 2016 expanded the consideration of factors such as the victim’s dependents, age, and loss of income.

The main aim was to adjust the compensation for fatality and severe injury whilst reducing the level of fraud in more frequent claims such as whiplash. It aims to fully compensate the victim(s) in a highly prescriptive way and quicken claims development as a result.

Whilst the Baremo is binding for road traffic accidents, it has also been recognised by the Spanish Supreme Court on numerous occasions for non-traffic accidents as well.

This document aims to cover:

How the Baremo from 2016 works

How it has changed since 2016

Claim case studies

Gallagher Re’s expertise

How the Baremo from 2016 Works

The Baremo splits compensation into three categories:

- ① **Death**
- ② **Sequelae/long-term injury**
- ③ **Temporary injury**

For each category, there are three types of losses which make up the compensation:

1. Basic personal loss: Base compensation amounts applicable to all claims
2. Individual personal loss: Outlines extra adjustments to the basic personal loss based on more specific details about the victim
3. Financial loss, split further into two categories:
 - Consequential damage: Covering extra expenses due to the accident
 - Loss of earnings: Covering earnings that would have been earned without the accidents

How the Baremo from 2016 works (cont.)

The compensation is laid out in sets of tables as described below:

	A. Basic Personal Loss	B. Individual Personal Loss	C. Financial Loss
1. Compensation for Death	<p>A. Basic Personal Loss</p> <p>Details lump sums for those with close relations to the deceased victim (e.g., spouse, parents, and children)</p> <p>(Table 1.A)</p>	<p>Adjusts the A. Basic Personal Loss based on more specific factors (e.g., if the victim was a single parent or if they were pregnant)</p> <p>(Table 1.B)</p>	<p>Consequential Damage: This compensates additional expenses including funeral/burial costs.</p> <p>Loss of Earnings: This specifies lump sums paid to economic dependents of the victim based on their relation, age, and the victim's income. This is laid out in separate sub-tables depending on the relation, outlined below:</p> <ul style="list-style-type: none"> ▪ 1.C.1: Spouse ▪ 1.C.1.d: Spouse with disability ▪ 1.C.2: Child ▪ 1.C.2.d: Child with disability ▪ 1.C.3: Parent ▪ 1.C.4: Sibling ▪ 1.C.4.d: Sibling with disability ▪ 1.C.5: Grandparent ▪ 1.C.6: Grandchild ▪ 1.C.6.d: Grandchild with disability ▪ 1.C.7: Any relative ▪ 1.C.7.d: Any relative with disability
2. Compensation for Sequelae	<p>The Table 2.A.1 allocate points based on type of injury (maximum 100 points)</p> <p>The Table 2.A.2 specifies compensation based on points scored in 2.A.1 and age of the injured</p> <p>(Sub-tables 2.A.1 and 2.A.2)</p>	<p>Adjusts the A. Basic Personal Loss based on the type of injury and other factors (e.g., loss of a foetus)</p> <p>(Table 2.B)</p>	<p>Consequential Damage: This covers expenses for healthcare, equipment, and rehabilitation needed after the injury. This includes three sub-tables for future healthcare outlined below:</p> <ul style="list-style-type: none"> ▪ 2.C.1: Details maximum annual amount of compensation for future healthcare expenses ▪ 2.C.2: Details hours of third-party care based on injury type/factors as well as adjustment for additional considerations (e.g., if a prior injury is aggravated) ▪ 2.C.3: Compensation table which details lump sum for third party care based on the victim's age and hours of care calculated from 2.C.2 <p>Loss of Earnings: This outlines the lump sum paid to injured based on income, age, and injury severity</p> <p>(Tables 2.C.4 to 2.C.7)</p>
3. Compensation for Temporary Injuries	<p>Provides Indemnity per day from date of accident until recovery</p> <p>(Table 3.A)</p>	<p>Specifies Indemnity per day from date of accident until recovery in the case of temporary loss of quality of life based on injury severity</p> <p>(Table 3.B)</p>	<p>Compensation applicable until the end of the healing process for:</p> <p>Health Care Expenses</p> <p>Miscellaneous Compensable Expenses (e.g., increased mobility costs, the need for a family member to temporarily move to look after them)</p> <p>Loss of Earnings: This is based on what would normally be earned during recovery</p> <p>(Table 3.C)</p>

Table samples given below:

Table 1.A for 2016: Death Compensation for Basic Personal Loss

Category 1. The widowed spouse	
Up to 15 years of cohabitation if the victim was up to 67 years old	90,000 €
Up to 15 years of cohabitation if the victim was between 67 and 80 years old	70,000 €
Up to 15 years of cohabitation if the victim was over 80 years old	50,000 €
For each additional year of cohabitation or fraction regardless of the age of the victim	1,000 €
Category 2. The ascendants	
To each parent if the deceased child was up to 30 years old	70,000 €
To each parent if the deceased child was over 30 years old	40,000 €
To each grandparent, only in case of death of the parent of his family branch	20,000 €
Category 3. The descendants	
Every child up to age 14	90,000 €
Every child between the ages of 14 and 20	80,000 €
Every child between the ages of 20 and 30	50,000 €
Every child over the age of 30	20,000 €
To each grandchild, only in case of death of the parent child of the deceased grandfather	15,000 €
Category 4. The brothers	
To every sibling up to 30 years old.	20,000 €
To every sibling over 30 years old	15,000 €
Category 5. The relatives	
To each relative	10,000 €

Section of Table 1.C.1 for 2016: Compensation to Spouse based on their age and net income of deceased—1.C.1 has multiple tables depending on how long they were married for. The other loss of earnings tables for parents, children, etc., follow a similar structure. Tables 2.A.2 and 2.C.3-8 also follow a similar structure but with different dependent variables (e.g., victim's age, hours of care/day).

Net income	Spouse's age										
	23	24	25	26	27	28	29	30	31	32	33
9,000 €	14,342 €	14,340 €	14,338 €	14,337 €	14,334 €	14,331 €	14,327 €	14,323 €	14,319 €	14,313 €	14,306 €
12,000 €	19,122 €	19,120 €	19,118 €	19,116 €	19,112 €	19,108 €	19,103 €	19,098 €	19,092 €	19,084 €	19,074 €
15,000 €	23,903 €	23,900 €	23,897 €	23,894 €	23,890 €	23,885 €	23,879 €	23,872 €	23,864 €	23,855 €	23,843 €
18,000 €	28,683 €	28,680 €	28,677 €	28,673 €	28,668 €	28,662 €	28,655 €	28,646 €	28,637 €	28,626 €	28,611 €

Baremo Updates Since 2016

The 2016 Baremo was published in a full document which laid out all the compensation tables and how they should be applied. Since then, the Baremo has received annual updates to come into effect at the beginning of each calendar year.

The updates since 2016 are outlined in the following table. Most compensation amounts are updated by a flat rate published each year. This is the same index applied to the state pension, which generally follows the Spanish CPI.

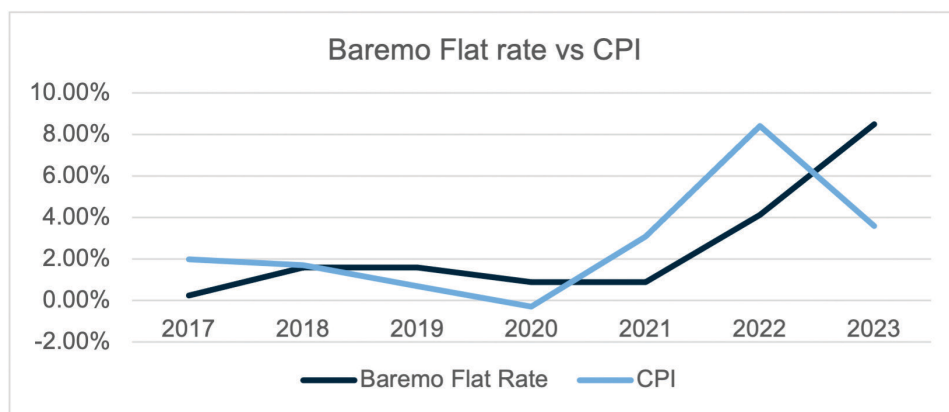
Tables regarding loss of earnings and third-party care (i.e., 1.C.1-7 and 2.C.3-8) do not follow this flat rate. Instead, they are based on a set of "Actuarial Technical Bases" using a prescribed formula. Typically, the compensation tables are not published every year as they only adjust according to the technical bases. Where this is the case, we have left the section blank in our table.

However, in 2019, 2020, and 2023, some of these tables were republished following more significant revaluations due to changes in the interprofessional minimum wage and/or discount rates.

More specifically, the discount rate in 2016 was set at 3.5% and has decreased for 2023 to 2.5%. This impacts the loss of earnings and future third-party care cost calculations.

Table	2017	2018	2019	2020	2021	2022	2023
1.C.1-7 and 2.C.4-6							Varied changes compared with 2016
2.C.3			Varied changes compared with 2016	Varied changes compared with 2019			Varied changes compared with 2020
2.C.7			Flat 39.5% increase on 2016 tables	Flat 5.56% increase on 2019 tables			Varied changes compared with 2020
2.C.8			Flat 43.8% increase on 2016 tables	Flat 5.56% increase on 2019 tables			Varied changes compared with 2020
Other tables (flat increase each year)	0.25%	1.60%	1.60%	0.90%	0.90%	4.13%	8.50%

Overall, claims broadly follow the flat rate unless there has been a significant change in any of the loss of earnings/third-party care compensation tables. The flat rate itself generally follows Spain's CPI with a 1one-year lag (i.e., 2022 annual inflation is similar to 2023 Baremo flat rate). This is shown in the following graph.



Claim Case Studies

This document doesn't cover how the Baremo worked prior to 2016; however, it is generally much simpler, and the change between 2015 and 2016 can vary massively depending on the claim characteristics. For reference, a statement from the Ministry of Justice estimated that, on average, compensation would increase by 50% in for death, 35% for Sequelae and 12.8% for temporary injuries relative to the 2005–2011 period.

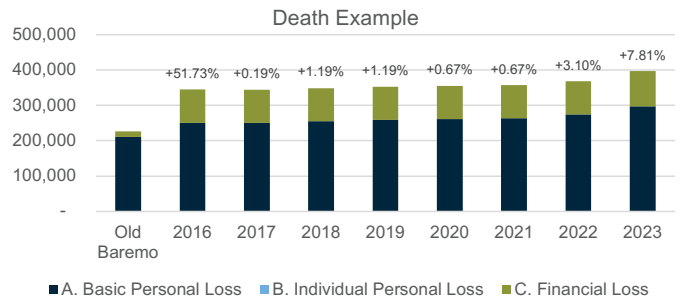
Using Gallagher Re's in-house tool for tracking claims as if under each annual Baremo from 2015, we can consider two case studies. In practice, compensation under many sections of the Baremo are specific to the nature of the claim itself. The following claim examples are based on a broad set of assumptions but aim to give an illustration of the year-on-year change one could expect from a similar scenario.

Both examples consider a 50-year-old victim on average pay with a spouse and two children who are economically dependent on them as the only earner.

Death example

In this example, the victim dies in a motor accident, and there is no Individual Personal Loss (e.g., no previous disability or lost foetus).

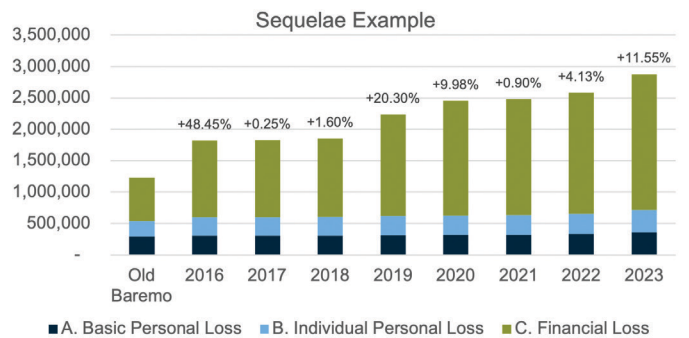
Note that "Article 87" (outlined in the full Baremo documentation from 2016) is applied to loss of earning compensation in the event of a death claim. It is a mechanism that regulates loss of earnings compensation particularly where the victim has many economic dependents.



Tetraplegia example

In this example, the victim has C5–C6 Tetraplegia with an "absolute" inability to return to work permanently (meaning 2.C.4 is applied for loss of earnings). They require the highest level of compensation for assistance except that no ventilation is needed. This includes 20 hours of third-party care per day under Table 2.C.3.

Third-party care costs make up most of the Financial Loss, which is the component that drives most of the year-on-year change as shown in the following chart.



Gallagher Re's Expertise

Each motor portfolio is unique and the impacts of the Baremo updates are expected to vary accordingly. A motor book of a mutual company of a given professional activity would be expected to be differently impacted, when compared to market average impacts, due to distinct age and salary profiles. Reserving and claims settlement approaches may further influence ultimate claim developments and Baremo impacts. Gallagher Re will support its clients in navigating through the constant updates of this important regulatory scheme, and understanding its impacts on reinsurance structures and pricing.

Gallagher Re has created an in-house tool aiming to accurately index claims by using the appropriate table by component for each year. Gallagher Re can also provide guidance on future Baremo updates and help anticipate the impacts on cedants' reinsurance programmes.

Please contact any member of the team for more information.

Overall, the impacts of each annual Baremo on traffic accident claims can be varied and complex. We recommend cedants to either provide their own view of indexed claims or a detailed split of the compensation components for brokers and reinsurers to index claims more accurately.

At the time of writing, the 2024 Baremo has been delayed and is yet to be announced. However, we anticipate that cedants and reinsurers will price in the expected changes from this awaited update for the upcoming 2024 renewal. Doing so would also reduce the risk of overcompensating in 2025. Assuming no significant changes in the calculations of loss of earning or third-party care, we can assume a 2024 Baremo flat rate to be similar to the 2023 annual average CPI, which is currently at 3.6% according to Banco de España.

References/Resources

2014 old Baremo

- <https://www.boe.es/boe/dias/2014/03/15/pdfs/BOE-A-2014-2819.pdf>

2016 Full Baremo tables and formulae for loss of earnings/third-party care

- https://www.boe.es/diario_boe/txt.php?id=BOE-A-2015-10197
- <https://www.asociacionabogadosrcs.org/portal/wp-content/uploads/2017/06/Publicidad-Bases-Tecnicas-JCSFP.pdf>

2017-2023 tables

- <http://www.dgsfp.mineco.es/es/Regulacion/Paginas/default.aspx>
"Tablas indemnizatorias" section

2023 update

- https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-17597

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- <https://accigest.com/indemnizacion-por-secuelas-en-accidentes-de-trafico/>
"Indemnizaciones" section

Actuarial technical bases

- https://www.boe.es/diario_boe/txt.php?id=BOE-A-2022-16281

Ministry of Justice estimate of impact of 2016 Baremo on claims

- <https://accigest.com/wp-content/uploads/2015/10/comunicado-nuevo-baremo-ministerio-de-justicia.pdf>

OECD Spain Historical CPI

- <https://data.oecd.org/price/inflation-cpi.htm>

Banco de España—Spain inflation projections for 2023 onwards

- <https://www.bde.es/wbe/en/publicaciones/analisis-economico-investigacion/proyecciones-macro/septiembre-2023--proyecciones-macroeconomicas-de-la-economia-espanola--2023-2025-.html>

Baremo claim calculator (website also has copies of the tables themselves)

- <https://baremoapp.tirea.es/#nuevaValoracion>

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