

FUTURE LOSS OF EARNINGS / BLAMIRE:

WORKSHOP PROBLEM

Gabriel Farmer & Anthony Reddiford, Guildhall Chambers

IN THE BIRKENHEAD COUNTY COURT

CLAIM NO. 09LI00001

BETWEEN

ALBERT TRYON

Claimant

AND

U.M.B. JOKING LTD

Defendant

SCHEDULE OF LOSS

Future losses

Future losses of earnings

1. The Claimant:
 - is a 25-year old man;
 - has put behind him his history of alcoholism, which led to him being admitted to a rehab unit 6 times in the 3 pre-accident years;
 - comes from a deprived background. Despite:
 - (a) his father never having worked again after being made redundant from a steelworks in 1992;
 - (b) his mother having abandoned his father and their 8 children for another man in 1993;
 - (c) 4 of his siblings currently serving prison sentences, 2 being long-term unemployed and 1 being in steady employment,
 - the Claimant had obtained a degree in media studies and had then found work as a semi-sedentary security guard prior to his accident;
 - had, at the time of his injury, been working as a security guard for 2 weeks, having previously been unemployed/in rehab. He intended to continue working as a security guard and to make a career in that industry.

- has sustained a nasty leg injury. The orthopaedic consultants agree that he is capable of working in a semi-sedentary occupation but he finds that doing so causes him very significant discomfort and so he (reasonably) has elected to cease working as a security guard.
 - as a result of the psychiatric effect of the accident, has suffered a relapse into alcoholism. He is, therefore, currently unable to work at all.
2. Prior to the accident the Claimant had been earning £16,000 gross/£13,000 net p.a. He had prospects of promotion. He would liked to have become a supervisor, which would have earned him £20,000 gross/£16,000 net. It is likely that he would thereafter have become a manager earning £25,000 gross/£19,000 net.
 3. The Claimant takes the pay progression in paragraph 2 above as being a reasonable “career model” and accordingly all losses are claimed at 100%.
 4. At age 25 the Claimant’s state retirement age is 68. The multiplier for a 25-year-old male to 68 is 25.80, taken by interpolating between Ogden tables 9 and 11. The discount factor from table A in the Explanatory Notes to the Ogden tables is 0.93 (degree level education; employed; not disabled). This gives a multiplier of 23.994.
 5. The Claimant’s case is that he would have earned £13,000 net for 3 years, before rising to £16,000 for a further 3 years and then earning £19,000 until retirement. Thus, but for the accident the Claimant would have earned;

£13,000 x 3 =	£39,000
£16,000 x 3 =	£48,000
£19,000 x 17.994 =	<u>£341,886</u>
Total	£428,886
 6. The Claimant is unable to continue working as a security guard. After he has undergone further rehab for alcoholism, he intends to use his media studies degree and become a journalist. However, as he has never worked as a journalist and his training it out of date, it is unlikely that he will ever earn more than the 10th centile figure from the ASHE, which is £18,000 gross/£14,500 net. Further, there is a substantial chance (assessed by the experts at 50%) that he will be unable to overcome his alcoholism. Accordingly, the Claimant conceded only half of the residual earning capacity that he would otherwise have had.
 7. As to the multiplier, the discount factor from table B is 0.48 (disabled; degree; unemployed). This gives 25.80 x 0.48 = 12.38.

£14,500 x 12.38 =	£179,510
x 50% to reflect alcoholism	£88,250
 8. Total future loss of earnings = £428,886 - £88,250 = £340,636.

QUESTIONS

1. What factors would you highlight to persuade the court to make a *Blamire* award?
2. When selecting his “but for...” multiplier, which category would you seek to argue he fell into, with regard to disability status, educational attainment and employment status?
3. How/where will the court measure the Claimant’s family background?
4. Is the Claimant’s evidence that he finds his semi-sedentary job too uncomfortable reasonably to tolerate sufficient to prove causation?
5. How would you attack the Claimant’s “career model” that includes 2 promotions?
6. What observations will you have regarding the splitting of the multipliers in paragraph 5 of the Schedule?
7. What would your response be to the Claimant’s claimed residual earning capacity on paragraph 6 of the Schedule?
8. What is the relevance of the Claimant’s relapse into alcoholism?

