

WESTSIDE

Calculating the lifespan of an injured car accident victim

Your grandfather is seriously injured in a crash. He survives, but is no longer able to live independently and must move into an assisted care facility.

You help him make a claim against ICBC, the negligent driver's insurance company, to recover fair financial compensation for his losses.

His losses are significant. He is left with permanent functional limitations as well as chronic pain.

He will incur sizeable monthly expenses for the rest of his life for medications, rehabilitation, and the assisted care facility.

The expense side of the claim should be fairly easy to sort out, right?

Take a tally of the monthly expenses and multiply that by how many more months your grandfather is going to live.

So tell me. How long is your grandfather going to live? On the one extreme, he could have a heart attack or stroke and die tomorrow. On the other extreme, he might live to be 110.

The issue of how long an injured victim is going to live comes up more often than you might think.

Most people suffering chronic crash related symptoms incur some



ACHIEVING JUSTICE

Paul Hergott

level of ongoing expense, whether it be for pain, sleep or depression medications, assistance for house and yard care, or ongoing passive or active therapies.

It is often necessary, in order to properly crunch numbers to determine fair compensation for a claim, to come up with a determination of how long the innocent victim is going to live.

The determination is done with statistics. Statisticians have analyzed statistics in order to come up with something called "life expectancy."

There are many on-line websites that will calculate life expectancy on being provided with an age and gender. One site that I access is www.life-expectancy.ca.

According to that site, I have another 41.5 years, with a life expectancy of age 83.5.

If calculating future losses for a personal injury claim, it is important to know what that means.

One ICBC adjuster I dealt with argued that fu-

ture losses should be calculated one-half way to life expectancy, to take into account the likelihood that my client could die a lot sooner.

It was a faulty argument. Life expectancy is a statistical average.

In fact, it is just as likely that you will live longer than your life expectancy as it is that you will die sooner.

The fair way to calculate future losses is to calculate them right up until the statistical average.

The same adjuster

had difficulty with understanding that your life expectancy is always increasing.

Every minute that you continue to breathe is a minute you have avoided the possibility of dying.

At age 42, my life expectancy is 83.5. If I successfully live to age 83.5, my life expectancy will have increased to 92. If I make it to age 92, it will increase to 97.2.

Sometimes experts in life expectancy get involved to look at particular risk factors and pro-

vide opinions on life expectancy that are different from the statistical averages.

For example, a smoker might have a lower life expectancy than the average.

On the face of it, this seems fair.

What about, though, if the reduction in life expectancy is caused by the crash injuries themselves?

What if the crash injuries not only resulted in chronic pain and limited function, but also

shortened the victim's life expectancy by five years?

If so, is it fair for the insurance company to bring in a life expectancy expert to prove a shorter life expectancy in order to reduce their compensation bill by five years?

It happens all the time. Is it fair? It smells bad. It smells really bad.

Remember, though, that our system is based on fair financial compensation for losses that have actually been suffered, and are likely to be suffered in the future.

As distasteful as it may be for an insurance company to save money by proving the crash they are responsible for shortened the victim's life, it is "fair" under our civil justice system.

This column is intended to provide general information about injury claims. It is not a substitute for retaining a lawyer to provide legal advice specifically pertaining to your case. Paul Hergott is a lawyer at Hergott Law in West Kelowna.

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ARE YOU READY TO BUY A HOME?

FIRST - Do you have the financial resources? You should have five percent of the purchase price of a home for the down payment, but ideally even more. Are there other priorities in your life e.g. starting a new business, which require your savings? If not, buying a home should be on your radar.

SECOND - Do you expect to stay in your new home for some time? Moving can be expensive and you will want to build some equity before having to relocate. Your job and home life should be stable.

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