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## **NEWSLETTER**

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**Newsletters by email:** By reason of the high cost of postage we will be discontinuing postal delivery of newsletters after the March 2009 newsletter. In order to be assured of ongoing receipt of the newsletter by email please go to my website [www.robertjkoch.com](http://www.robertjkoch.com) and login your details, including your email address.

**Inflation:** CPIX for June 2008 was a whopping 11,6%. All Government employees got an increase of 10,5% in July 2008. The good news is that the yield curve is inverted, that is to say short dated Government fixed interest stocks are trading at higher rates of interest than stocks with maturity dates 5 and 10 years into the future. That means that the investment experts are expecting the recent rash of high inflation to subside to some degree in the near future (12 to 24 months). By reason of the very low rates that have prevailed the last 8 years the average rate of inflation since year 2000 has been only 6,5% per year.

**Depreciation of taxis:** When a taxi driver is killed or injured and there is a claim for damages for loss of earnings or support, his earnings are usually proved by way of a report by an investigator. These reports often give extensive detail of petrol and tyre costs, costs of repairs and other maintenance. Never once have I received a report in which allowance is made for capital depreciation or provision for buying a replacement vehicle. This seems to me to be a serious omission that serves to substantially inflate the reported earnings of the victim above their true level.

**Missing taxi assets:** When a taxi driver is wrongfully killed and the dependants claim damages for loss of support a deduction needs to be made for the assets inherited by the widow and/or children. The law of intestate succession dictates that the widow and children inherit, not some brother or uncle of the deceased. In many instance the vehicle will have been destroyed in the same accident that killed the breadwinner. In other instances the widow reports taking over the taxi business, sometimes successfully and sometimes not. However, there remain a number of instances, such as where the deceased had more than one taxi, where the failure to report inherited assets leaves the actuary wondering where those assets went. A deduction for acceleration must be made even when the estate was not reported to the Master's office and even when there is no formal liquidation & distribution account.

**Two parts to the deceased, one part to each child:** When children claim for loss of support by reason of the death of their unmarried father his earnings are usually apportioned two parts to the deceased and one part to each child. This simple formula is, of course, merely a convenient substitute for detailed evidence as to the actual maintenance payments made by the deceased and is only appropriate under circumstances where the children cohabited with the deceased prior to the death. If the deceased incurred exceptional expenditure, such as supporting the mother of the children without being married to her then the deceased's share should be increased to perhaps 4 parts. Thus in *Van Aardt NO v Southern Versekerings-Assosiasie Beperk* 1986 (O) (unreported 27.2.86 case 523/82) the deceased was wont to provide expensive gifts and assistance to non-dependant family members. The Court ordered that three parts be allocated to him instead of the usual two parts. In *Munarin v*

*Peri-Urban Areas Health Board* 1965 1 SA 545 (W) the deceased had been making regular payments to his self-supporting mother in Italy. The Court ordered that these payments be deducted from his distributable income before apportioning between the dependants.

In circumstances where the children did not cohabit with the deceased the two-parts formula should not be used at all. South African fathers have an appalling track record for failing to pay maintenance, as is evidenced by the numerous claims for loss of support arising from the deaths of single mothers; the father of the children is usually not even assisting his children with their claims. If it had been the absentee father who had died the claims for the children should, strictly speaking, be close to nil, apart from perhaps a nominal amount to allow for the small chance that the children may actually have exercised their right to support during his lifetime. For breadwinners who had lowly incomes the trouble of calling for detailed evidence of the provision of support may not be worth the effort. However, if the deceased breadwinner had a substantial income the defendant may be well advised to investigate the true situation more closely and demand evidence of actual support payments.

**E-mail to an industrial psychologist:** An aspirant industrial psychologist submitted a copy of one of his reports to me for comment. I had this to say:

"You need to be much more explicit in your earnings models. You should avoid such things as "generic models". That implies that you use one model for all claimants - definitely not a good thing. You need to take all available information (including family background and mentor and peer influences) and construct a **likely** (not potential) earnings path for that particular individual. Most importantly have regard to what an individual was actually earning at the time of the accident. A 50-year old gardener is not going to get a formal sector job. A survey of hawkers revealed that none would take a formal sector job even if one were offered. If you state a retirement age of 60/65 the actuary must use age 62,5. Some occupations have earlier and some later retirement ages. That is an aspect on which you are expected to have knowledge and be able to express a firm opinion. Your table of predicted career progress is a good thing provided you then convert it into actual earnings estimates at each level and have regard to the formal/informal/semi-formal differences in earnings. It is not sufficient to state the job grading - you must also state the rands associated with that grade. There are various quartiles and earnings with and without fringe benefits. Informal sector earnings are poorly documented. Industrial Council determinations can be relevant, particularly in the building and clothing industries. Most employees do not receive performance bonuses. Many work overtime, but this can vary widely from a mere 1% of salary to over 100%.

The salary scales and fringe benefits for civil servants and police etc are very structured. Most industrial psychologists when using these scales fail, however, to properly quantify the substantial fringe benefits.

In many instances when a man is laid off he gets a disability pension or income replacement benefit and/or a lump sum. These benefits are important to quantifying a claim and details should appear in your report.

**Finis**