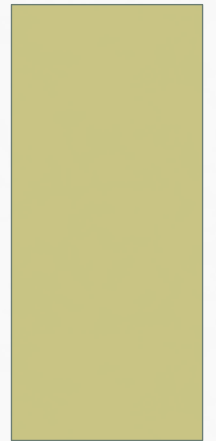


# PRACTICAL STRATEGIES FOR EXPERTS

TRIAL DEMONSTRATION: LIFE CARE PLANNER



# CATASTROPHIC INJURY DAMAGES

- Non-Pecuniary General Damages
- Income Loss
- Cost of Future Care, Services
- Therapies
- Equipment
- Housing
- Case Management
- Other Economic Losses

# COST OF FUTURE CARE/SERVICES

- Usually the largest component of damages in catastrophic cases
- Wide scope for courts to control overall assessment
- Depends of evidence from a variety of experts:
  - Physicians, Occupation Therapists, Physiotherapists, Others

# HOW IS COMPENSATION FOR CARE ASSESSED?

- What is the nature of the disability?
- What is the appropriate living arrangement?
- What does the family prefer?
- What are the required qualifications of the care provider?
- How much time is needed to care for the injured person?
- What are the hourly rates?
- What is the annual cost?
- What is the present value of the loss?

# WHAT HAVE THE COURTS SAID ABOUT FUTURE CARE?

- An award must be “fair” to both parties
- “Fairness” is achieved by assuring that the claims are legitimate and justifiable
- The plaintiff must “justify” the expense claims, but need not prove it is “necessary”
- The injured person does not have to languish in an institution
- The defendant’s ability to pay is irrelevant

# FACT SCENARIO

- Boy, now 14 years old, injured in car collision
- No significant medical history
- Injuries:
  - LOC
  - Head Trauma
  - GCS 6/15
  - Brain injury (frontal hemorrhages, diffuse axonal injury, bilateral petechial hemorrhages in frontal lobes, cerebral edema)
  - Fractured Left arm
  - Liver and spleen lacerations

# CURRENT FUNCTIONING

- Sequelae of traumatic brain injury includes:
  - Difficulties with fine motor coordination
  - Visual-motor processing speed reduced
  - Impaired verbal and visual memory
  - Impulsivity
  - Difficulties with problem solving
  - Right-sided weakness
  - Poor concentration
  - Back pain with prolonged sitting

# VOCATIONAL

- Attending grade 9
- Has Individualized Education Plan (IEP)
- Extra time for school work
- 4 hours of tutorial services per week
- Diligent and motivated, achieving reasonable marks
- Expected that he will pursue post-secondary education, likely college
- University has not been ruled out



# RECOMMENDATIONS INCLUDE

- Cognitive Aids
- Occupational Therapy
- Speech Language
- Physiotherapy
- Counselling
- Neuropsychological assessments
- Private School tuition
- Cases Management
- Housekeeping
- Attendant Care

# PERSONAL CARE ASSISTANCE RECOMMENDATION

- From age 18, for life
- Personal Support Worker (PSW)
- \$26.54 per hour
- 23.15 hours per day
- \$224,263 per year
- Present value: > \$9,500,000