

# t a b l e s The WorkCase

## *New research shows true effects of injury on employment*

New research has delivered important insights into the effects of injury on the employment prospects of working-age Australians with considerable implications for the assessment of damages in personal injury claims.

**B**ased on Australian Bureau of Statistics (ABS) data, The WorkCase Tables show for the first time the statistical effects of injury for demographic groups, or for highly personalised individual cases.

The new study calculates 'residual worklife', that is, the number of years a person is expected to be in employment between 15 and 65 years of age, based on sex, age, level of education and severity of impairment.

The WorkCase Tables show the extent to which employment prospects worsen in line with severity of injury and how education and training improve vocational outcomes and support subjective assessments of residual earning capacity with statistical analysis.

The employment effects of injury can now be predicted with greater accuracy. The data indicates that injured workers, even with a mild disability, experience significant employment disadvantage and loss of income.

The Tables strongly suggest that many

| Descriptors                                | Sex: Female | Age: 35 | Education: Basic qualification |        |          |
|--|-------------|---------|--------------------------------|--------|----------|
| Disability                                 | None        | Mild    | Moderate                       | Severe | Profound |
| Residual worklife (years)                  | 19.5        | 13.6    | 11.6                           | 10.6   | 5.5      |
| Loss of worklife due to impairment (years) | 0.0         | 5.9     | 7.9                            | 8.9    | 14.0     |
| Percentage loss                            | 0%          | 30%     | 41%                            | 46%    | 72%      |

plaintiffs whose injuries are permanent but not total are presently being inaccurately or inadequately compensated.

### Assessing future loss

Often the biggest dollar factor in an injury claim - loss of future income - is the least certain. Claims relating to partial incapacity are the most difficult to assess. In such cases, damages are calculated on the basis of lifetime earnings but for injury, less the imputed value of post-injury earning capacity. Residual earning capacity is made up of predictions as to post-injury earnings rate, weekly hours worked and lifetime employment probability.

A competent vocational assessment should indicate the type of work an impaired person can perform, including rates of pay and work capacity in hours per week. The probability of a



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person's lifetime employment, however, is more elusive.

Where a plaintiff has returned to employment, even with difficulty or for reduced hours, it is commonly argued that the injured person will work to age 65. Claims are routinely reduced to allow for possible unemployment and other 'vicissitudes of life' which lessen lifetime earnings and which would predictably occur irrespective of injury.

Plaintiffs may be awarded a 'cushion' for possible future unemployment due to injury, but until now this has been, to put it kindly, less than scientific and often unsatisfactory for both plaintiffs and defendants.

Take for example a typical work accident victim, a semi-skilled male of 35 years of age earning \$625 net per week. After sustaining a mild impairment, he returns to part-time work and takes home \$300.

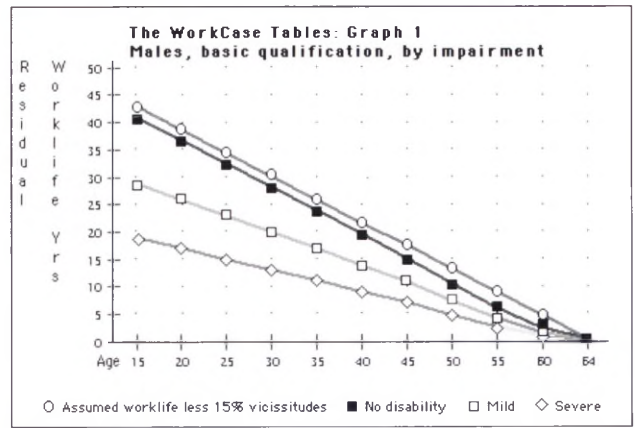
Without a 'cushion' and after 15% reduction for 'vicissitudes', his future economic loss amounts to \$227,000 at

present value. In the light of The WorkCase Tables and absent other variables, the claim would be \$335,000 - a 48% increase.

### Using The WorkCase Tables

The WorkCase Tables can be used by non-health practitioners to gauge the effects of impairment on an individual. They are particularly useful when comparing the residual worklife of an injured person with a that of similar but uninjured person.

The effects of injury can be shown as probable future years of employment or as a reduction in worklife, either in years or as a percentage. Such calculations may be particularly relevant under new Victorian Workers Compensation legislation which enables access to common law damages with a threshold 40% reduction in earning capacity.



This graph compares methods of calculating economic loss from injury. It suggests the traditional "vicissitudes" approach is approximately accurate only for persons with no disability. Persons with permanent impairment experience reduced residual worklife.

The WorkCase Tables show residual worklife by:

- Sex
- Age (each year from 15 to 64)
- Five levels of educational attainment (did not complete school/completed school/basic qualification/undergraduate qualification/graduate or higher)
- Five levels of impairment (profound/severe/moderate/mild/none). ▶



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Calculations show averages for groups matching these ABS descriptors. The real-life employment experience of individuals will vary greatly, depending on, among other factors, pre-injury employment security, language skill, personal motivation, family support, access to transport and other factors not included in statistical sampling.

Employment prospects are affected to a significant degree by changes in medical condition. Medical prognoses and knowledge of the effects of degenerative change contribute to predicting the subject's likely future employment.

Unemployment may be experienced in periods of varying or increasing duration, or early retirement, or both, with varying effects on claim quantum due to the time-value of money.

Precise analysis of forensic quality is a matter for expert opinion requiring professional assistance in interpreting the long-term, vocational effects of injury as well as those local and personal factors which may affect a subject's residual worklife.

The WorkCase Tables can provide practitioners with a starting point for preliminary evaluation of future economic loss due to reduced earning capacity.

#### Statistical background

The foundations of worklife are: participation in the labour force, employment and survival.

Potential worklife begins at 15 years of age and continues to pensionable age of 65 years, thus the maximum worklife available is 50 years. Expected residual worklife at any age will always be less than the length of time to age 65, however, because an individual may die, spend time out of the labour force, or be unemployed.

The chances of death are taken into account using the ABS Life Tables. Employment probabilities are calculated using data from the May 2000 ABS Labour Force survey. Calculations show that males have a higher residual worklife than females and that residual worklife reduces with age, dropping

sharply after age 55.

The effects of education on employment probabilities were calculated using data from the May 1999 ABS "Transition from Education to Work" publication. Perhaps unsurprisingly, the higher the level of education, the higher the probability of working.

The most profound influence on employment probability, however, is disability.

Employment probabilities by disability and age were calculated using data from the 1998 ABS Survey of Disability, Ageing and Carers. In summary, the higher the level of disability, the lower the probability of working.

#### Qualifications

Five qualifications should be attached to The WorkCase Tables.

First, residual worklife refers to the average for a group of the same age, sex, disability and educational attainment whereas actual worklife will vary among individuals.

## ENGINEERING AND ERGONOMICS EXPERT

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# ALL PERSONAL INJURIES

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- ◆ Motor vehicle accidents

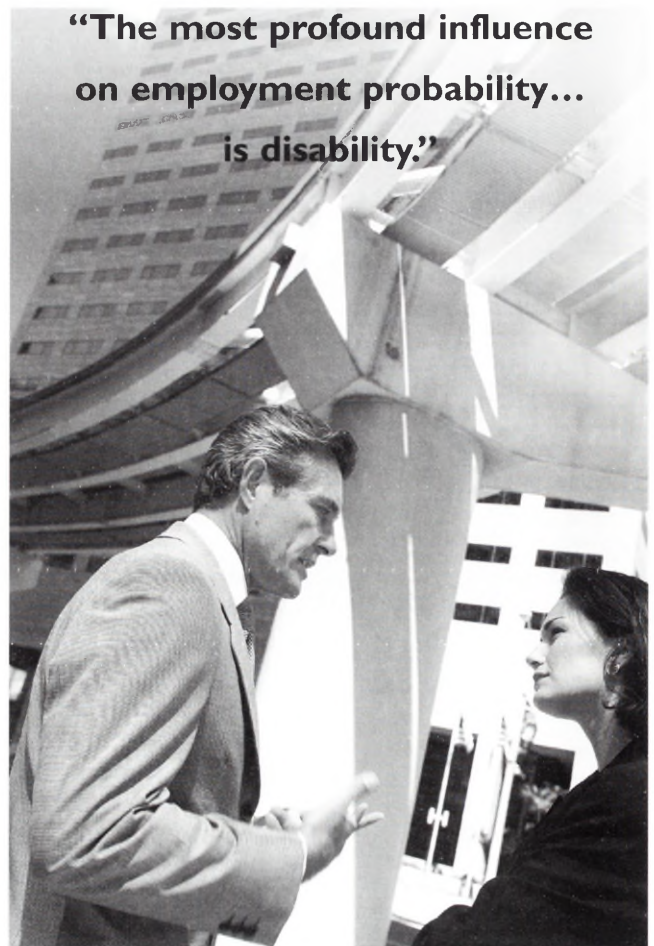
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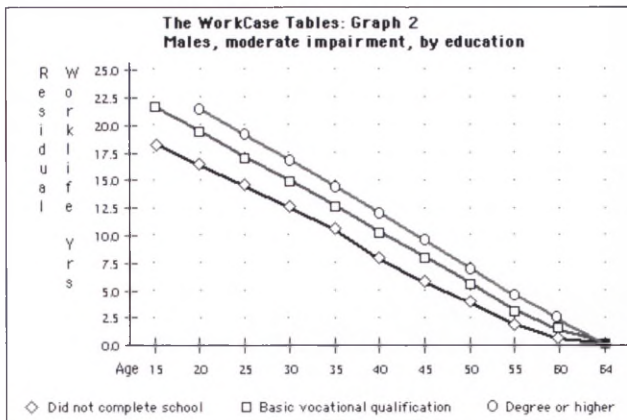
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This graph shows the effects of the training and education on employment: higher levels of vocational preparation improve job prospects for persons with disabilities.

However, by using four discriminators to define a group, the variation is less than if fewer discriminators were used.

Second, factors personal to an individual and outside ABS surveys will affect residual worklife, including local employment opportunities, transport access or language skills.

Third, calculations are based on current employment and survival probabilities, which will be affected to an extent by future economic, social and medical developments.

Fourth, survey information is subject to normal sampling error. Also, simplifying assumptions have been necessary, e.g. that disability and educational attainment have independent effects on employment probabilities.

Finally, the ABS counts a person as employed if they worked for one hour or more in the week before the data was collected. Many would regard a person working for only one hour in a week as being in fact unemployed. A higher threshold for classification as employed (say, four or eight hours per week) would have the effect of

decreasing the expected residual work-life of individuals.


### Summary

The WorkCase Tables show for the first time the effects of injury on employment based on statistical analysis, and allowing for discrimination by sex, age, education and level of impairment. These effects are so marked as to strongly suggest that some permanently impaired plaintiffs are being inaccurately compensated.

The new information can assist practitioners in assessing injury claims for future economic loss and will be particularly helpful in cases of partial incapacity. Analysis of forensic quality will require expert assistance.

This is significant new research which adds a much-needed degree of statistical rigour to assessment of personal injury claims.

### Availability

Insurers, practitioners and researchers can obtain The WorkCase Tables for use under license from WorkCase Publishing Pty Ltd. 

## INDEPENDENT REVIEW

An independent review of the research was commissioned from KPMG Actuaries. The review stated, in part:

"The WorkCase Tables provide valuable, statistically based and independent analysis of the effects of disability on an individual's residual earning capacity. Correctly applied, the Tables will make a significant contribution to accuracy in the complex calculation of economic loss arising from injury, whether in common law or workers compensation.

"The WorkCase Tables provide a sound and simple guide to the vocational impact of injury. They will be particularly useful in calculating economic loss in personal injury litigation for both defendants and plaintiffs.

"Such instruments have the potential to improve distribution of ... awards (and are clearly to be encouraged."

# SPECIAL MESSAGE FROM THE CONFERENCE CHAIRS



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**Richard Carew & Peter Carter**  
(Conference Co-Chairs)