

New Ogden Tables. 6th Edition. UPDATE

The latest edition of the Ogden tables was published on 3rd May 2007. The full text can be accessed using the following link: http://www.gad.gov.uk/Publications/docs/Ogden_Tables_6th_edition.pdf

Summary of the changes.

The tables are based on updated mortality figures from 2004-based population projections. The biggest effect of the new tables will be to increase multipliers for loss of pension for younger claimants, according to the very helpful explanatory notes at the beginning of the tables. There is very little change in multipliers for loss of earnings and there are increases of between 0% and 4% in multipliers for pecuniary loss for life. The latter may well have a more significant effect on total damages payable than the increase in loss of pension claims.

There are major changes in the tables showing contingencies to be allowed for other than mortality, which are likely to reduce loss of earnings claims. Conversely, the changes may have the effect of decreasing the amount of earnings a claimant may be expected to earn in future in mitigation of his loss. Since this is the most important change, assuming that the tables are accepted by the courts, it is dealt with in more detail below.

At paragraphs 22 to 24 of the explanatory notes, there is some new helpful guidance on splitting multipliers for future loss where that future loss varies, for example in a loss of earnings claim where promotion is likely in the future.

Allowance for contingencies other than mortality.

Recent research has shown that people without disabilities are out of employment on average for longer than previously thought. It is argued in the new Ogden tables that a higher discount therefore should normally be applied for contingencies other than mortality.

For simplicity, a summary of the way the tables will affect a loss of earnings claim following an accident is given below. When dealing with a claimant's residual earning capacity after an accident, similar factors will apply, but obviously the claimant's post accident state should then be considered, including any disabilities resulting from the accident.

Important factors are gender, whether a claimant was employed or not before the accident, whether a claimant was disabled or not, and educational attainment. Educational attainment is split

into three bands: degree level or equivalent, GCSE A to C up to A levels, and below GCSE Grade C to no qualifications. Interestingly, there is no longer an adjustment for types of occupation or geographical region, as these were found to be less significant factors.

There are different tables for males and females, disabled or not. The tables allow for the effect of breaks in employment for child or other family care commitments. They give a reduction factor which can be applied to the basic multiplier, to produce a multiplier which allows both for mortality and for other contingencies.

For example, a female claimant aged 35 at trial, who was not disabled before the accident, with no qualifications, who would have worked in manual employment earning £15,000 net pa until 60 but is now totally disabled and incapable of work, would now recover significantly less for her loss of earnings claim. Using the 5th edition gives a basic multiplier of 18.39, discounted by the medium discount (allowing for no other discount for occupation/geographical region) of 0.95, which produces $17.47 \times £15,000 = £262,050$. Using the 6th edition gives, interestingly, the same basic multiplier of 18.39, discounted by 0.78 which produces $14.34 \times £15,000 = £215,100$. This is £46,950 less than before. The effect of this may be offset in cases where a claimant has a residual earning capacity, as that will also be reduced by these tables.

No doubt there will be many debates about the extent to which these new tables should apply at all, and how applicable they are to any particular claimant's circumstances.

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