

**1750.2 PERSONAL INJURIES: PAST AND FUTURE: ONE VERDICT QUESTION
(EXCEPT PAST LOSS OF EARNINGS AND PAST MEDICAL EXPENSES)**

**[NOTE: The Committee believes use of this unsubdivided
special verdict will be limited. See Comment.]**

Question _____ asks what sum of money will fairly and reasonably compensate (plaintiff) for any personal injuries (he) (she) sustained as a result of the accident. Your answer to this question should be the amount of money that will fairly and reasonably compensate (plaintiff) for the personal injuries (he) (she) has suffered to date and is reasonably certain to suffer in the future as a result of the accident.

Personal injuries include pain, suffering, and disability (disfigurement) which means any physical pain, worry, distress, embarrassment and humiliation which (plaintiff) has suffered in the past and is reasonably certain to suffer in the future. You should consider also to what extent (his) (her) injuries have impaired and will impair (his) (her) ability to enjoy the normal activities, pleasures, and benefits of life. Consider the nature of (plaintiff)'s injuries, the effect produced by (plaintiff)'s injuries in the past, and the effect the injuries are reasonably certain to produce in the future, bearing in mind (plaintiff)'s age, prior mental and physical condition, and the probable duration of (his) (her) life.

Personal injuries can also include any loss of future earning capacity suffered by (plaintiff). If you are satisfied that (plaintiff) has suffered a loss of future earning capacity as a result of the injuries sustained in the accident, your answer to this question should include the difference between what (plaintiff) will reasonably be able to earn in the future in view of the injuries sustained and what (he) (she) would have been able to earn had (he) (she) not been injured.

[Where appropriate add the following paragraph: Because (plaintiff) was the owner and operator of a business at the time of the accident, you should, in determining (his) (her) loss of future earning capacity, consider the character and size of the business, the capital and labor employed in the business, (and) the extent and quality of (plaintiff)'s services to the business, (and the profits of the business).]

Personal injuries can also include health care and treatment expenses. If you are satisfied that (plaintiff) will require health care and treatment in the future for injuries sustained as a result of the accident, include in your answer to this question the sum of money that will reasonably and necessarily be expended in the future for that care and treatment.

COMMENT

This instruction and comment were approved in 1969 as JI-Civil 1750. They were revised and renumbered in 1998.

This instruction covers a special verdict question which combines all damage elements except past loss of earnings and past medical expenses in a single question.

The Committee does not generally recommend the use of a single verdict question to determine damages where the plaintiff seeks to recover different types of damages for personal injuries. Instead, the Committee suggests the jury should be asked to answer separate questions or subdivisions to cover each of the types of damages sought by the plaintiff. However, there may be some cases in which, because of the evidence presented by the parties, it may be more expeditious to try the case so that the jury is simply asked a single question on damages which encompasses several different types of damages.

The instruction should be tailored to the evidence by only including the damage types sought by the plaintiff. See the separate types of damages covered by JI-Civil 1756 to 1768.

For evidence as to age and probable duration of plaintiff's life, see Lutz v. Shelby Mut. Ins. Co., 70 Wis.2d 743, 235 N.W.2d 426 (1975); Hargrove v. Peterson, 65 Wis.2d 118, 221 N.W.2d 875 (1974); Doolittle v. Western States Mut. Ins. Co., 24 Wis.2d 135, 128 N.W.2d 403 (1963).

For prior physical condition, see Helleckson v. Loiselle, 37 Wis.2d 423, 155 N.W.2d 45 (1967); Freuen v. Brenner, 16 Wis.2d 445, 114 N.W.2d 782 (1961).