

1795 PERSONAL INJURY: LIFE EXPECTANCY AND MORTALITY TABLES

In determining future damages as a result of (plaintiff)'s injuries, you may consider the fact that at this time (plaintiff) is ___ years of age and has a life expectancy of ____ years.

A mortality table which gives the expectancy of life of a person of (plaintiff)'s age was received in evidence as an aid in determining such expectancy. It is not, however, conclusive or binding upon you as to (plaintiff)'s actual or probable expectancy of life. Mortality tables are based upon averages, and there is no certainty that any person will live the average duration of life rather than a longer or shorter period. To determine the probable length of life of (plaintiff), you will consider all of the facts and circumstances established by the credible evidence bearing upon that subject.

COMMENT

This instruction and comment were approved in 1974. The comment was updated in 1990. Editorial changes were made in 1992 to address gender references in the instruction. No substantive changes were made to the instruction.

The trial court may take judicial notice of tables published by government agencies and may include the figures in instructions to the jury. Donlea v. Carpenter, 21 Wis.2d 390, 124 N.W.2d 305 (1963).

The table referred to in Donlea is the table published in the annual Statistical Abstract of the United States, U.S. Bureau of the Census. In the 1972 edition, it is table No. 76 on page 56. A copy of the table taken from the 1961 Statistical Abstract can be found in Am. Jur. Desk Book, page 356.

See Nolop v. Skemp, 7 Wis.2d 462, 465, 96 N.W.2d 826, 828 (1959); Pedek v. Wegemann, 275 Wis. 57, 68, 81 N.W.2d 49 (1957); Gonzalez v. City of Franklin, 128 Wis.2d 485, 383 N.W.2d 907 (Ct. App. 1986).

See also Hargrove v. Peterson, 65 Wis.2d 118, 221 N.W.2d 875 (1974), in which the trial court properly refused to instruct on the life expectancy of a minor plaintiff.

Hayes, "Use of Mortality Tables in Tort Actions," June 1959 Wis. Bar Bull. 27.