

1835 INJURY TO MINOR CHILD: PARENT'S DAMAGES FOR LOSS OF CHILD'S EARNINGS AND SERVICES: PAST AND FUTURE

Question _____ asks you to determine [(parent)s'] [(parent)'s] loss of (child)'s services resulting from the injuries sustained by (child). The (parents) (parent) of an injured minor child (are) (is) entitled to the earnings and to the reasonable value of the services which the minor child was capable of rendering to the (parents) (parent) until the child reaches the age of 18.

You should award such sum as will reasonably compensate (parents) (parent) for any loss of income as you are satisfied (minor child) was reasonably capable of earning and for the loss of the reasonable value of the services to which (parents) (parent) were entitled during the period of (minor child)'s disability, to date, resulting from injuries received in (the accident).

If you find that (minor child)'s disability will continue in the future as a natural result of the injuries sustained in (this accident), you should allow (parents) (parent), and include in your award, an amount which will fairly and reasonably compensate (them) (him) (her) for any loss of income (minor child) would have been reasonably capable of earning and for the reasonable value of the services which (minor child) would have rendered to (parents) (parent), except for the disability, until (minor child)'s 18th birthday.

While the plaintiff has the burden of establishing loss of future earning capacity, the evidence relating to this item need not be as exact or precise as evidence needed to support your findings as to other items of damage. The reason for this rule is that the concept of (loss of future earning capacity) requires that you consider factors which, by their very nature, do not admit of any precise or fixed rule. You therefore, are not required in determining the loss of future earning capacity to base your answer on evidence which is exact or precise but

rather upon evidence which, under all of the circumstances of the case, reasonably supports your determination of damages.

COMMENT

The instruction and comment were initially approved by the Committee in 1979 and revised in 2000.

Webster v. Krembs, 230 Wis. 252, 260-61, 282 N.W. 564 (1939); Osborne v. Montgomery, 203 Wis. 223, 227, 234 N.W. 372 (1931); Callies v. Reliance Laundry Co., 188 Wis. 376, 380, 206 N.W. 198 (1925); Johnson v. St. Paul & Western Coal Co., 131 Wis. 627, 632, 111 N.W. 722 (1907).

In each of the instructions 1835 through 1845 is included a paragraph on future damages. These paragraphs would be employed only where called for by the fact situation.

Evidence of Future Loss. The last paragraph of the instruction was previously contained in Wis JI-Civil 1705 as a general instruction. The committee believed it was important and more convenient to users to add this general language from Wis JI-Civil 1705 to each instruction on future loss of earning capacity and pecuniary loss.