



Economic loss claims by self
employed Plaintiffs
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91 Phillip Street Parramatta

Seminar Issues

- The Plaintiff's financial circumstances
- Financial information requirements
- The Plaintiff's operating business structure
- Analysis of financial statements
- Revenue recognition - accounting basis
- Gross profit margins
- Operating expenses
- The Plaintiff's remuneration
- Balance sheets
- Summary
- General discussion

The Plaintiff's financial circumstances

- The Plaintiff's financial circumstances prior to the date of the accident should be carefully examined.
- An assessment of the situation prior to the accident may assist in the determination of what the Plaintiff would have done but for the accident.
- However, it is essential to note that the past is not necessarily indicative of the Plaintiff's earning capacity.
- As an example a business operated by the Plaintiff may be in a growth phase.
- Alternatively, the Plaintiff may be undertaking a course of training which would substantially boost his or her earning capacity.

Financial information requirements

- Information required includes income tax returns, notices of assessment, financial statements, bank statements, BAS statements.

The Plaintiff's operating business structure

- Self employed Plaintiffs can operate their businesses via a number of entities.
- These entities include partnerships, trusts and companies.
- Self employed persons can also operate as a sole trader.

Analysis of financial statements

- Financial statements are prepared by reference to applicable accounting standards, corporate and income tax legislation and rulings.
- Financial statements should be reviewed in conjunction with the income tax returns for the relevant entity.

Revenue recognition - accounting basis

- Revenue may be recognised on either the cash or accruals basis.
- The cash basis refers to the recognition of revenue when it is actually received.
- The accruals basis recognises revenue once an invoice is issued and not when the payment is actually received.

Gross profit margins

- Gross profit reflects the difference between gross income and the cost of sales.
- The cost of sales generally refers to those costs that relate directly to the sales.
- The gross profit margin may be benchmarked so as to compare the Plaintiff's business with that of others operating within the same industry.
- The gross profit margin may assist in determining economic loss where the Plaintiff contends that his business sales have been impacted upon by the accident.

Operating expenses

- Operating costs are indirect costs and can be either fixed or variable.
- Fixed costs include items such as rent and insurance.
- Variable costs may include items such as employee wages.
- Operating expenses and net profit (calculated by deducting expenses from gross profit) may also be benchmarked so as to compare the Plaintiff's business with that of others operating within the industry.

The Plaintiff's remuneration

- The Plaintiff employee may be remunerated by way of salary, director fees, management fees, superannuation contributions, fringe benefits, trust distributions, drawings and dividends.
- These remuneration methods may not necessarily be reflected in the Plaintiff's income tax return.
- These sources of remuneration should be added back to the business net profit in order that the total earnings generated by the business may be calculated.

Balance sheets

- The balance sheet records the assets and liabilities of the business entity.
- Pertinent items to review include the existence of shareholder or beneficiary loan accounts and whether there is an excess of assets over liabilities.
- Solvency issues may present in the balance sheet.

Summary

- There is an increasing trend for self employment in the modern Australian economy.
- As a result this is reflected in an increase in the number of self employed Plaintiffs and the accompanying levels of complexities associated with their financial arrangements.

General discussion

- Projected business growth.
- Loss of opportunity to sell the business.
- Business plans.
- Financing.
- Use of drawings and loan accounts.



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