

ROBERT J KOCH BSc (hons) LLB LLD

Fellow of the Faculty of Actuaries in Scotland

Urgent deliveries use DHL account 305056388
E-mail rjkoch@attglobal.net

Cape Town Office at:
1A Chelsea Avenue
Devil's Peak 8001
Fax1: 021-4624109

PO Box 15613
Vlaeberg 8018
Tel: 021-4624160
Fax2: 021-4624140

NEWSLETTER

(Number 39- December 2000)

Dear Reader,

WE WISH YOU A VERY HAPPY XMAS AND A PROSPEROUS NEW YEAR

Inheritances by children deducted from lost support: When a child claims damages for loss of support arising from the death of a breadwinner a deduction must be made for the advantage of an inheritance received from the deceased. The deduction is not the full amount inherited but a lesser amount usually termed the "deduction for acceleration". For a widow the deduction for acceleration will have regard to the widow's chances of having received the inheritance at some later time during the joint lifetimes of herself and the deceased. In *Lambrakis v Santam* 2000 3 SA 1098 (W) it was ruled that for a child regard should be had only to the period up to when the child would have become self-supporting and not to the entire joint lifetime of the child and the deceased. The effect of this ruling is that the deduction for inheritance for a child is 90% or more of the amount inherited. If regard were had to the entire notional joint lifetime of the deceased and the child the deduction would be only about 50% of the amount inherited. The rationale for the ruling was that the dependants' action is directed at compensating loss of support only, and not general financial loss such as loss of inheritance prospects later in life.

Birth rates: The recently published Population Report records that birth rates in South Africa have dropped substantially. For white women of childbearing age the average number of children has dropped below the population replacement rate of 1,9 children. For coloured women the rate has dropped from 6,5 children per woman in the 1960's to 2,5 children. For black women the rate has dropped from 6,8 children per woman in the 1960's to 3,1 children. This is good news indeed for the future of the South African population and its ability to feed and educate itself. For dependants claiming damages for loss of support it means that the contingency deduction to be made for unborn notional children may be reduced.

The report records birth rates of 5,1 in Namibia, 4,4 in Zimbabwe, 4,1 in Botswana, and 6,1 in Zambia.

Relative cost of living: A recent publication promoting investment in South Africa ("Location South Africa" July 2000) lists the indexed costs of living in different parts of the world on a scale where South Africa is rated 100: Most expensive is Japan at 320 followed by United Kingdom at 244 and New York at 234; Singapore is 202; Egypt 198; Canada 181 (probably also a fair reflection of non-New York USA); Australia 166; Zimbabwe 149; New Zealand 140; cheapest is India at 91 (my thanks to Tony Twine of Econometrix for passing this on to me).

page 2....

More life tables: The recently published *Quantum Yearbook* 2001 includes two old sets of life tables that have not previously been included:

- * a table for Asiatics based on the 1984-86 census. Due to the cessation of formal racial classifications there are no more recent tables. This table is commonly used by actuaries in South Africa. By way of comparison one may note that for a coloured male aged 30 the life expectancy is 34,7 years compared to 35,8 years for an Asiatic male of the same age.
- * a table for black workers prepared under the supervision of Prof Dorrington of the University of Cape Town. The Black population of South Africa comprises persons from a wide variety of socio-economic backgrounds. It is thus statistically unsound to attribute one life table to all black persons and my own preference is to disregard race and have regard solely to factors such as income and education. The Dorrington table reveals surprisingly high rates of mortality. The Dorrington table gives a life expectancy of 34,0 years for a male aged 30 (see above for coloureds and Asiatics).

These tables all reflect mortality as it was before AIDS became prevalent. We remain in the dark as regards the latest developments. For compensation claims one should use different tables for claimants who are HIV positive. The life expectancy of a 30 year old HIV victim is about 10 years.

It perhaps also deserves mention that the age to which a person is expected to live, the expected age at death, becomes older as one moves up the life table. It is useful to remember that life expectancy is the number of years it will take for 50% of those now alive to die. The other 50% will live well beyond the years allotted by the table.

Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COID): The benefits provided under this Act are still widely referred to as "WCA" benefits, despite the old Workmen's Compensation Act having been replaced 7 years ago. The capitalised value of the pensions awarded by the Commissioner are deductible when assessing road-accident damages for personal injury or death. The Road Accident Fund is obliged to pay to the COID Commissioner the amounts deducted. COID benefits have been much maligned by compensation lawyers as an example of inadequate compensation. Once upon a time there was some validity in this accusation, but not any more. Pensions awarded by the COID Commissioner have since 1991 been regularly and adequately increased, starting with a whopping 20% increase in 1991 and thereafter yearly increases that have averaged well above the rate of inflation. The pensions do not cease at retirement age but continue to escalate for the lifetime of the beneficiary. These post-retirement benefits are a valuable feature. The formula used by the Commissioner to capitalise these benefits provides for a 4½% per year net capitalisation rate (compared to 2½% per year used for common-law calculations). 4½% per year is very high considering the level of pension escalations that have prevailed for the last 10 years. This means that the capitalised values deducted from common-law damages have been generously low. The census life table for whites is now applied to all races regardless. This implies overdeduction for lower income groups. The pension payments are tax free (another plus feature). A maximum of 3 children will be granted child dependency pensions (see birth rates supra). The "attendant allowance" for the seriously disabled still remains a pitiful R120 per month.

finis