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NEWSLETTER

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The financial scene: The Consumer Price Index (CPI) at March 2005 was 3%; CPIX was 3,6%. These two different measures of inflation are now closing together, as was to be expected. 12 months ago annualised CPI was 0,7% compared to a CPIX of 4,8%. This created some problems for agreements, such as maintenance payments, linked to CPI, rather than the higher CPIX. Because CPI is dominated by the housing loan rate it will climb substantially if interest rates go up, as can be expected if the rand starts to weaken too much against the dollar. In 2004 Government employees negotiated wage increases linked to CPIX, and CPIX seems to be the general standard for salary and wage increases. The yields on long dated fixed interest stocks are trading at 8½% per year. This means a real rate of return relative to CPIX of 4,7% per year, which is very high by historical standards.

On the investment front house price increases have averaged over 15% per year since 1998, a good place for a claimant to invest money. One sometimes hears the absurd suggestion that the claimant should not do so because how can he then consume his capital to replace his lost income. Solution: firstly the claimant is spared a major living expense as regards where to stay, secondly tenants can be taken in, thirdly when the income to be replaced is increasing for inflation there is a massive "ballooning" of the capital for up to 20 years before consumption of capital commences. When all else fails sell the large house and move into something cheaper. The real rate of return on residential property has been a whopping 11% per year, but will it last?.

Share prices showed 20% gains in 2002, then 20% losses in 2003, and back to 20% gains in 2004. You need a tough stomach to live with this sort of thing. Best not to look at share prices too often. In the longer 10 year term things should average out alright.

Saved living expenses: In the event of a severe injury leading to a reduction in life expectancy the calculation for both the uninjured and the injured condition is based on the reduced life expectancy (*Lockhat's Estate v North British & Mercantile Insurance Co Ltd* 1959 3 SA 295 (A)). The life expectancy but for the accident is not used to calculate future earnings but for the accident. The reason for this is that the victim now injured is spared his living costs during the "lost years". Living costs are, for this purpose, equated to income net of taxation.

Working overseas: A common form of claim these days is that of the South African nurse or teacher or doctor who planned to take up employment in England, say, at a substantially higher rate of pay than could be earned in South Africa. By reason of the injuries the victim can no longer go overseas. There is a loss of British pounds. The proper rate of exchange to apply is that prevailing at the date of settlement of the claim (*Infolsdottir v Mutual and Federal Insurance Company* 1988 (SWAZI) (unreported 27.5.88 case 1054/86)). This means that separate calculations must be done for the British Pound part of the calculation and for the South African rand part

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of the calculation. Further allowance should then be made for the very much higher living costs in England. If one postulates that one's entire overseas income is consumed with living expenses (as in the *Lockhat* ruling) then the proper deduction is that which will reduce the value of the overseas loss of earnings to the lower cost of living in South Africa. For practical purposes this means assessing the overseas loss of earnings using the South African Rand rates of pay.

Cost-of-living international comparisons: Given that the cost of living in New York is 100 then the relative cost of living index for **South Africa is 35**. On the expensive side try **Japan at 140**, Norway at 130, Switzerland at 125, Russia at 120, and **United Kingdom at 125**. Australia and New Zealand are at 92 (figures for 2004 derived from www.finfacts.com/costofliving4.htm by "The Economist" and related sites).

Fiscal drag: The tax threshhold for the 2005/06 tax year (T2006) for a person under age 65 is R35000 per year. 10 years ago the threshhold was R15000 which is equivalent to R30000 in 2005, ie a doubling due to inflation, but less than R35000. The tax threshhold is today at a 10 year low, as it should be. For those earning R70000 per year in T2006 the average tax rate is 9% compared to 13½% on half that income 10 years ago. The creeping fiscal drag of the pre-1994 Government has been reversed. At R140000 per year the T2006 average tax rate is 16,9% compared to 27,4% for T1996. At R280000 per year the average is 28,5% compared to 36% for T1996. Congratulations Trevor Manual.

COID claims - a new harvest for MVA lawyers?: Terry Bell (Cape Times 13 May 2005) reports that the COID Commissioner has undertaken to admit old claims for which there is no employer's report. Previously only an employer could press a COID claim, and a report from the employer was a sine quo non for admission of a claim. Now the victim may press his claim in person (or assisted by an attorney). There are an estimated 100000 "logjammed" claims, and probably many more that have not even reached the COID Commissioner's offices. The undertaking by the COID Commissioner was with the Pretoria (Tshwane?) Legal Resources Centre and was made an order of Court in May 2005. An odd way to change claim procedures, but good news for many deprived victims. The COID Commissioner has absolute liability provided the injury took place in the course and scope of the victim's employment and, it seems, the victim was contributing to the COID Fund. The other big question is "Can the COID office's administration handle the claims?"

Ex RAF semper aliquid nova: In Newsletter 56 December 2004 I queried the statement by Seth Cooper, chairman of the board of the RAF, that the cost of fraud in the RAF was running at R1 billion per year. I have since received a report that this figure was derived from a survey done by setting up an undercover "attorney" who canvassed for work from touts in the Pretoria area. The "attorney" was not selective about the claims that he accepted and took in everything that came his way. The touted claims were then checked out by RAF staff and the proportion that proved to be false (fraudulent?) was then projected onto the total claims received by the RAF. A less objective form of statistical analysis is difficult to imagine. Every touted claim that had been rejected by every other attorney in town would have been rushed to the undercover attorney's door, once the "good news" got around amongst the touts. Fraud at the RAF may be of unacceptable proportions, but I seriously doubt that it is at the level of R1 billion per year.

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