How to compensate claimants for the impact of injury on future employment

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1. Conventional method

difference \times \text{Ogden Multiplier} + \text{SvM} in earnings (employment reduction)

2. Alternative method (DAM)

pre-injury - post-injury
life-time sum - life-time sum
Smith v. Manchester lump sum

1. SvM is calculated without reference to the multiplier-multiplicand method. It is a single arbitrary lump sum of 6-24 months earnings

2. 6-24 months does not adequately represent the negative impact of disability on future employment
The Labour Force Survey

- Three spring quarters
- 191,508 individuals of working age
- 16.2% of men report a work-affecting disability
- 41.6% of this group are employed

(Figure 1)
Four variables

1. male/female
2. employed or not-employed at survey
3. employed or not-employed 12 months ago
4. work-affecting disability
US-style approach

annual earnings x employment probability

summed over each remaining year of working life and adjusted for life-expectancy and early-receipt
Calculating the employment rates

Conditional working life-time employment rates

• sex
• age at injury/trial
• work-affecting disability
Average working life time employment rates at age 36 years

Pre-injury employment rate is 90.4%

Post-injury and employed employment rate is 52.0%

Post-injury and not employed employment rate is 33.8%

(Table 2, 3 and 4)
Table 6

<table>
<thead>
<tr>
<th>Age (years)</th>
<th>(i) Pre-injury status: Employed not disabled</th>
<th>(ii) Post-injury status: Employed disabled</th>
<th>(iii) Pre-injury status: Not employed disabled</th>
<th>(iv) Post-injury status: Not employed disabled</th>
</tr>
</thead>
<tbody>
<tr>
<td>16-19</td>
<td>89.3</td>
<td>50.1</td>
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<td>20-29</td>
<td>90.7</td>
<td>49.9</td>
<td>87.9</td>
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<td>30-39</td>
<td>90.4</td>
<td>52.0</td>
<td>85.6</td>
<td>35.0</td>
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<td>40-49</td>
<td>88.4</td>
<td>54.3</td>
<td>81.0</td>
<td>24.2</td>
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<td>84.4</td>
<td>54.2</td>
<td>53.8</td>
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<tr>
<td>60-64</td>
<td>88.5</td>
<td>66.6</td>
<td>16.5</td>
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</table>
Adjustment to Ogden Multiplier

post-injury adjusted employment rate
pre-injury adjusted employment rate

(Table 7)
Multiplier to be applied to post-injury calculation

0%  38%  62%  100%

incapable of work  not employed but capable  employed but at risk  employed but no additional risk
Does it make a difference?
The pre-injury loss of future earnings for a 36 year old man who was earning £30,000 at the time of injury:

Multiplier $18.08 = (20.09 \times 0.90)$

Pre-injury capitalised loss:
£542,400 = £30,000 \times 18.08
Post-injury future earnings for a 36 year old man who was earning £20,000 at the time of settlement:

Multiplier 18.08 = (20.09 x 0.90)

Post-injury capitalised loss:
£361,600 = £20,000 x 18.08
Smith v Manchester lump sum

12 months of post-injury earnings = £20,000
Future loss of earnings using conventional method

£200,800 = £542,400 - £361,600 + £20,000
Disability-adjusted method

Pre-injury capitalised loss:
£542,400 = £20,000 x 18.08

Post-injury capitalised loss (employed):
£224,192 = £20,000 x 18.08 x 0.62
Future loss of earnings using DAM

£318,208 = £542,400 - £224,192

Compare with conventional method
difference is £117,408
ratio is 0.63
Disability-adjusted method

Pre-injury capitalised loss:
£542,400 = £20,000 x 18.08

Post-injury capitalised loss (not employed):
£137,408 = £20,000 x 18.08 x 0.38
Future loss of earnings using DAM

£404,992 = £542,400 - £137,408

compare with conventional method
difference is £204,192
ratio is 0.50
Qualifications

1. Self-reported disability produces general over-reporting of disability (downward bias)

2. Non-employment status produces specific over-reporting of disability (upward bias)

3. No measure of severity and inclusion of the severely disabled who are incapable of work (upward bias)

4. Timing of disability is not reported. Those disabled during working life have greater re-employment problems (downward bias)