

# Insurance “fringe” benefits can add substantially to income loss calculations

By Saqib Durrani

There has been very little written about the valuation of fringe benefits in the context of personal injury and wrongful death area. Estimating the value of fringe benefits is an increasingly important component of the analysis of economic loss in litigation. If a complete income loss is to be assessed, then the loss of fringe benefits has to be taken into account. This is a pecuniary loss that can be valued. Fringe benefits are a major component of compensation packages in many occupations; in some instances the value of an injured person's fringe benefits may equal one-third or more of their total salary. The range of benefits typically include:

- Health insurance
- Dental insurance
- Eye insurance
- Life insurance
- Disability insurance

Health insurance related benefits are the most prevalent non-wage benefits offered by employers. From my experience this is true for most industries. Also, usually as the size of the workplace increases, the incidence of health related fringe benefits increases.

Unique benefits that are different from the ordinary may include:

1. Home repairs and improvements paid for by an employer.
  2. Housing and other living expenses (including domestic services) provided at principal or vacation residences.
  3. Personal use of company property such as automobiles, planes, yachts, apartments, hunting lodges, and company vacations.
- Employees that are given

TABLE 1: Average Hourly Earnings & Non-Wage Benefits, 2001

Employee and Workplace Characteristics	Non-Wage Benefits	
	No	Yes
	Hourly Earnings	Hourly Earnings
<b>Educational Attainment</b>		
Less than high school	\$11.82	\$14.59
High school	\$13.14	\$16.87
Some university or post-secondary	\$13.52	\$20.20
University	\$19.55	\$29.83
<b>Occupation Groups</b>		
Managers	\$18.23	\$33.90
Professionals	\$21.45	\$27.12
Technical/Trades	\$14.19	\$19.18
Marketing/Sales	\$9.60	\$12.21
Clerical/Administrative	\$12.59	\$15.68
Production workers	\$9.41	\$14.51
<b>Region</b>		
Atlantic	\$10.73	\$17.06
Quebec	\$12.83	\$19.82
Ontario	\$13.79	\$22.24

use of these types of company resources for personal use constitute unique types of fringe benefits.

4. Memberships in clubs in which an employer is a member or is paid by the employer is a form of a fringe benefit.

5. Professional services for financial, accounting, legal with respect to purely personal matters, whether from employees of the company where their fees are paid

directly by the employer.

Considering that the fringe benefit component of an award may be substantial, both plaintiff counsel and defense counsel should take as much interest in determining the types and amounts of fringe benefits that are available to an individual. In cases of disability, the loss of fringe benefit can be a significant loss. If the injured party is forced into less competitive employment, it is

values are significant in cases which a disabled person is forced into an occupation that does not provide non-wage benefits.

Economists have different methodologies in calculating the value of fringe benefits, which

usually are a combination of two perspectives of the individual for whom the loss is being estimated (Brookshire and Smith 1990). One is to obtain information as personally descriptive of the individual as possible.

In general, an economist would develop an analysis based on reasonable assumptions expanding from the specific situation of the individual. The key is to exercise due diligence in seeking benefit information from the employer or from the employee. In these circumstances, fringe benefit information is best estimated with a

comprehensive valuation of an employee's benefit package. Most often this arises where the individual has a long track record with a single employer which might be expected to continue for the foreseeable future. This is evidenced in the preparation of a income loss report that presents the computational results of the fringe benefit loss. Unfortunately, human resource information systems and benefit information systems are often not responsive to individual requests in terms of timeliness or format.

The other is to rely on statistical data that reflect the employer cost of fringe benefits. In many circumstances, fringe benefits are properly estimated as a percentage of base salary. For example, when projecting the future earnings of a

recent college graduate, the expert may gather fringe benefit information from statistical averages for different occupations. The option is to rely on statistical databases published by Statistics Canada and fringe benefit compensation studies from private organizations.

Employers contribute to many different benefit plans on behalf of employees. And since there are a large number and variety of fringe benefits available, it is easy to understand the difficulty that exists when it comes to estimating the value of group life insurance, extended health and hospital insurance, dental insurance, short-term and long-term disability insurance

in a personal injury setting. A list of the most common fringe benefits available is on Table 2.

Table 2 shows how fringe benefits can add value to a base salary from 5% to 6% if the above noted benefits are offered by an employer. The durable goods manufacturing industries received the highest employer sponsored benefits, followed by those in chemicals, government, non-profit organizations, and retail and wholesale. Table 2 outlines data from Watson Wyatt Study, Benefit Cost as a Percent of Pay (Selected Industries). Other sources specific to the individual could be appropriately matched to the individual, eg., demographic, or other profile variables, such as labour market.

## Illustrative example

I illustrate with an example that suggests that benefits can be a substantial component of the economic loss. Consider the case of a 30-year old male government employee with an annual salary of \$65,000 who is prematurely disabled permanently by a personal injury. If this individual had the benefits listed in Table 1, the employer cost of fringe benefits would equal 6.2% or \$4,030. If we further assume that the work-life expectancy for a male this age is approximately 32 years. Assuming a conservative annual fringe benefit of \$4,030 per annum, the present value of the loss of fringe benefit based on the employer cost approach will be \$93,516. This is certainly a substantial sum and does not include legally required benefits such as Canada Pension Plan benefits, Employment Insurance and Workers Compensation Benefit premiums.

The information in this article suggests some important considerations when valuing fringe benefits. The results suggest that claims for economic loss for fringe benefits can be significant. These non-wage benefits can be measured from the perspective of the employee by either assessing specific individual fringe benefits or relying on statistical data to estimate the costs of the fringe benefits.

The illustrative example helps to understand the significance of measuring fringe benefits. Since there has been more attention given to the value of this component in economic loss, lawyers will require accurate estimates for lost fringe benefits. These benefits are becoming an increasing percentage of the total economic loss and deserve more attention. This article is written with the hope that future discussions may produce some insight to reduce conflict and uncertainty in the litigation process.

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TABLE 2: Cost of Specific Employer Sponsored Plans as a Percentage of Gross Annual Payroll, 2001

Industry	Life Insurance	Medical Care	Dental Care	Short-term Disability	Total (%)
All Industries	0.3%	2.5%	1.5%	1.5%	5.8%
Durable Goods Manufacturing	0.4%	2.7%	1.6%	1.7%	6.4%
Retail & Wholesale	0.3%	2.3%	1.3%	1.0%	4.9%
Chemicals	0.3%	2.5%	1.5%	2.0%	6.3%
Government	0.3%	2.2%	1.7%	2.0%	6.2%
Non-Profit Organizations	0.4%	2.3%	1.4%	1.4%	5.5%

likely that the fringe benefits will also be diminished. In these types of situations, the difference between the pre and post fringe benefits may estimate the difference in value.

Moreover, in Canada average hourly earnings are higher in workplaces that provide non-wage benefits see (Table 1). This fact is true regardless of educational attainment, occupation group or region. This information is applicable to personal injury and wrongful death settings as it provides a monetary value for differences between workplaces that provide non-wage benefits and those that choose not to. These

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