

## Index

<b>ABUSE OF PROCESS</b> Exemplary damages, <b>11:6</b>	<b>ANTICIPATORY REPUDIATION</b> —Cont'd Employment contracts, <b>5:19, 15:9</b> Mitigation, <b>15:9</b> Seller, by, <b>1:13</b>
<b>ACCELERATION CLAUSES</b> Generally, <b>8:2</b>	<b>APPEALS</b> Defamation, <b>4:2</b> Review of awards, <b>13:6</b> Subsequent events, <b>13:7</b>
<b>ACCOUNTING</b> Generally, <b>1:6, 5:15, 9:4</b>	<b>APPROPRIATION OF PERSONALITY</b> Generally, <b>9:2</b>
<b>ACTIO PER QUOD CONSORTIUM AMISIT</b> Generally, <b>2:4</b>	<b>ARTISTIC WORKS, VALUE OF</b> Generally, <b>1:5</b>
<b>ACTIO PER QUOD SERVITIUM AMISIT</b> Generally, <b>2:2, 2:3, 5:20</b>	<b>ASSAULT</b> Exemplary damages, <b>11:6</b>
<b>ACTORS</b> Loss of publicity, <b>4:6</b>	<b>ASSESSMENT OF DAMAGES</b> See DATE FOR ASSESSMENT OF DAMAGES; RULES OF DAMAGE ASSESSMENT
<b>ACTUAL LOSS</b> Generally, <b>5:21, 15:11</b>	<b>BAILMENT</b> Bailee's damages for damage to property by third party, <b>1:16</b> failure to return goods, <b>9:2</b> lease with option to purchase, <b>1:15, 1:16</b> loss or destruction of goods see PROPERTY
<b>ACTUARIAL EVIDENCE</b> Generally, <b>3:18</b>	<b>BAIN V. FOTHERGILL, RULE IN</b> Generally, <b>1:20</b>
<b>ADMINISTRATION COSTS</b> Survival actions, <b>12:14</b>	<b>BANKNOTES, VALUE OF</b> Generally, <b>1:5</b>
<b>AGENCY, CONTRACT OF</b> Breach by principal see EARNINGS, LOSS OF Non-performance by agent see SERVICES	
<b>AGGRAVATED DAMAGES</b> Generally, <b>4:3, 11:1, 11:3</b> Interest, <b>7:13</b>	
<b>AMENITIES, LOSS OF</b> Generally, <b>3:8</b>	
<b>ANTICIPATORY REPUDIATION</b> Buyer, by, <b>5:21</b>	

## LAW OF DAMAGES

### **BANKS**

Failure to honour cheques, **4:6**

### **BARGAIN, LOSS OF**

See BREACH OF CONTRACT

### **BENEFITS IN KIND RECEIVED BY PLAINTIFF**

Generally, **3:40**

### **BEREAVEMENT**

Generally, **6:12**

### **“BETTERMENT” OF DAMAGED PROPERTY**

Generally, **1:3, 1:39**

### **BREACH DATE RULE**

See FOREIGN CURRENCY

### **BREACH OF CONFIDENCE**

Generally, **5:13 to 5:17, 9:2**

### **BREACH OF CONTRACT**

See also BUILDING CONTRACTS

Benefit derived from, **1:29, 9:5**

Exemplary damages, **11:6**

Inducing, **2:7, 5:4, 5:13 to 5:17**

Intangible losses, **11:6**

Normal measure of damages, **5:1**

Pre-contract expenses, **4:4, 4:5**

Reliance interest, **5:3**

Reputation, **4:6**

Third party beneficiaries, **5:2**

### **BREACH OF PROMISE OF MARRIAGE**

Economic loss, **5:12**

Exemplary damages, **11:6**

Intangible injuries, **3:33**

Reputation, **4:6**

Survival actions, **12:10**

### **BREACH OF RESTRICTIVE COVENANT**

Generally, **9:2**

### **BREACH OF WARRANTY OF AUTHORITY**

Generally, **5:5**

### **BRIBE**

Generally, **15:12**

### **BUILDING CONTRACTS**

Breach by owner, **5:19**

Builder's failure to perform, **1:29, 2:8**

### **BURDEN OF PROOF**

See ONUS OF PROOF

### **BUSINESS LOSS**

Generally, **5:13 to 5:17**

Mitigation, **15:11**

Unconventional opportunity, **3:10**

### **CARRIAGE OF GOODS**

Breach by cargo owner

see EARNINGS, LOSS OF

Non-performance by carrier, **2:9**

Owner's damages for loss of goods

see PROPERTY

Owner's damages for loss of use of goods

see PROPERTY, loss of use

Remoteness, **14:7**

### **CAUSATION**

See also REMOTENESS

Damage by independent causes, **1:25**

Events occurring after the wrong, **1:6, 1:24, 1:31, 13:7**

### **CERTAINTY OF PROOF**

Generally, **13:1**

### **CHANCE, LOSS OF**

Generally, **5:19, 13:4**

Employment contracts, **5:19**

### **CHARTER OF RIGHTS AND FREEDOMS**

Generally, **10:4, 11:16**

**CHARTER-PARTIES**

Charterer's failure to repair, **1:29**

**COLLATERAL BENEFITS**

Generally, **3:35 to 3:44, 15:11**

**COLLATERAL GAINS**

Generally, **15:11**

**COMA**

Generally, **3:8, 3:15**

**COMPANIONSHIP, LOSS OF**

See **WRONGFUL DEATH**,  
intangible losses

**COMPETITION, WRONGFUL**

Generally, **5:13 to 5:17**  
Liquidated damages, **8:5**

**CONSEQUENTIAL DAMAGES**

Generally, **1:3, 1:8, 1:24, 1:26 to 1:28, 1:34 to 1:38, 2:10, 5:13, 14:1 to 14:23**

**CONSORTIUM, LOSS OF**

Generally, **2:4**

**CONSPIRACY**

Exemplary damages, **11:6**

**CONSTRUCTION CONTRACTS**

See **BUILDING CONTRACTS**

**CONSTRUCTIVE TRUST**

Generally, **9:4**

**CONTEMPTUOUS DAMAGES**

Generally, **4:2, 4:4, 10:3**

**CONTINGENCIES**

Generally, **3:3, 3:10, 3:16**  
Cost of care, in, **3:31**  
Wrongful death, **6:17**

**CONTINUING CAUSE OF ACTION**

Generally, **13:7**

**CONTRACT, BREACH OF**

See **BREACH OF CONTRACT**

**CONTRACT, WRONGFUL INTERFERENCE WITH**

See also **BREACH OF CONTRACT**  
Generally, **5:4**

**CONTRIBUTORY NEGLIGENCE**

Generally, **15:2**  
Wrongful death, **6:18, 6:19**

**CONVERSION**

Generally, **1:6, 1:17, 1:18, 1:25**  
Detinue, compared with, **1:6**  
Exemplary damages, **11:6**  
Value added to property by defendant, **1:4**

**COPYRIGHT INFRINGEMENT**

Generally, **5:13 to 5:17**  
Exemplary damages, **11:6**

**CORPORATION**

Wrongful death, **6:1**

**COSTS**

Interest, **7:26**  
Investigation, of, **5:18**  
Nominal damages, and, **10:1**  
Restoration, of, **1:29**  
Transport, of, **1:3**

**CRIMINAL ACTS**

Exemplary damages, and, **11:2, 11:15**  
Remoteness, **14:20**

**"CRUMBLING SKULL" DOCTRINE**

Generally, **14:19**

**DAMAGES AT LARGE**

Generally, **5:4, 13:2, 13:6**

**DATE FOR ASSESSMENT OF DAMAGES**

See also **FOREIGN CURRENCY; PERSONAL INJURIES; PROPERTY; SERVICES**  
Generally, **1:6, 7:2**

## LAW OF DAMAGES

### **DATE FOR ASSESSMENT OF DAMAGES—Cont'd**

Crystallization, **1:6, 13:7, 15:5**  
Foreign currency, **7:3**  
Interest, **7:20**  
Misrepresentation, **5:8**  
Non-acceptance by buyer, **5:21**  
Postponement, **1:6**

### **DEATH**

See SURVIVAL ACTIONS;  
WRONGFUL DEATH

### **DEBT**

Generally, **1:29, 7:1**

### **DECEIT**

See MISREPRESENTATION

### **DEFAMATION**

Apologies, **4:3**  
Charter of Rights, **4:2**  
Defendant's conduct, **4:3**  
Excessive awards, **4:2**  
Exemplary damages, **11:6**  
General damages, **4:2 to 4:4**  
free speech, **4:2**  
Intangible injuries, **3:32, 4:2, 4:4**  
Plaintiff's circumstances, **4:4**  
Slander, special damages, **4:1**

### **DEMURRAGE**

Generally, **1:24, 5:21**

### **DEPRECIATION**

Generally, **1:36**

### **DETINUE**

Generally, **1:6, 1:17, 1:18**  
Conversion, compared with, **1:6**

### **DISCOUNT CLAUSES**

Generally, **8:2**

### **DISCOUNTING TO PRESENT VALUE**

Generally, **3:18, 3:26**  
Wrongful death, **6:4**

### **DISFIGUREMENT**

Generally, **3:8**  
Survival actions, **12:4**

### **DISPOSITION OF AWARD**

Generally, **3:20, 3:31**

### **EARNING CAPACITY**

Generally, **3:1**  
Amateur sports, **3:11**  
Annual loss, **3:10**  
Capital nature of loss, **3:9**  
Delay, **3:10**  
Illegal earnings, **3:13**  
Length of earning life, **3:14**  
Loss of capacity to perform  
household work, **3:12**  
Loss of value of shares, **3:10**  
Pre-accident life expectancy, **3:15**  
Pre-trial loss, **3:5**  
Survival actions, **12:11**

### **EARNINGS, LOSS OF**

Generally, **5:19, 13:5, 15:6**

### **“EFFICIENT BREACH”**

Generally, **9:5, 11:6**

### **EMPLOYMENT BENEFITS RECEIVED BY PLAINTIFF**

Generally, **3:38**

### **EMPLOYMENT CONTRACTS**

See also EARNINGS, LOSS OF;  
SERVICES  
Breach by employee, **2:1, 2:10**  
Breach by employer, **5:19, 13:5, 15:6**  
Intangible injuries of employee, **3:33**  
Mitigation by employee, **15:11**  
Repudiation by employer, **15:9**  
Wrongful dismissal, **5:19, 13:5, 15:6**

### **ENTICEMENT**

Generally, **2:5**  
Exemplary damages, **11:6**

**EQUITABLE DAMAGES**

Generally, **1:3, 1:6, 5:2, 5:5, 5:14, 7:20**

**EVENTS OCCURRING AFTER THE WRONG**

Generally, **1:6, 1:24, 1:31, 1:32, 13:7**

**EXEMPLARY DAMAGES**

Generally, **1:16, 11:1**  
 Abuse of process, **11:6**  
 Amount, **11:7**  
 Assault, **11:6**  
 Breach of contract, **11:6**  
 Breach of copyright, **11:6**  
 Breach of promise of marriage, **11:6**  
 Compensatory damages, and, **11:9**  
 Conversion, **11:6**  
 Criminal proceedings, and, **11:15**  
 Deceit, **11:6**  
 Defamation, **4:2, 4:3**  
 Defendant's conduct, **11:5**  
 Defendant's conduct after wrong, **11:14**  
 Defendant's means, **11:8**  
 Enticement, **11:6**  
 False arrest, **11:6**  
 Fiduciary duty, **11:6**  
 Intangible injuries, **3:32, 3:33**  
 Interest, **7:24**  
 Interference with contract, **11:6**  
 Multiple defendants, **11:10**  
 Multiple plaintiffs, **11:11**  
 Negligence, **11:5, 11:10**  
 Nuisance, **11:6**  
 Plaintiff's conduct, **11:13**  
 Restitution, and, **9:2, 11:3**  
 Survival actions, **11:12, 12:9**  
 Theoretical basis, **11:2**  
 Vicarious liability, **11:10**

**EXEMPTION CLAUSES**

Generally, **8:8**

**EXPECTATION INTEREST**

Generally, **2:1, 5:1**

**EXPECTATION OF LIFE, LOSS OF**

Generally, **3:8**  
 Survival action, **12:7**

**EXPENSES**

As measure of lost profits, **1:28**  
 As measure of value of services, **2:1, 2:12**  
 As substitute for lost profits, **1:25, 1:37**  
 Pre-contract expenses, **2:1**  
 Reliance on contract, **2:1**

**EXPROPRIATION**

Generally, **1:3**

**FALSE ARREST**

Exemplary damages, **11:6**  
 Intangible injuries, **3:32**

**FATAL ACCIDENTS**

See **WRONGFUL DEATH**

**FEELINGS, INJURY TO**

See **INTANGIBLE INJURIES**

**FIDUCIARY DUTY**

Breach, remoteness, **14:22**  
 Exemplary damages, **11:6**

**FINDER**

Generally, **1:16**

**FOREIGN CURRENCY**

Generally, **1:3, 7:3**  
 Interest, **7:19**

**FORFEITURE CLAUSES**

Generally, **8:7**

**FRANCHISE, WRONGFUL TERMINATION**

Generally, **5:13 to 5:17**

**FRINGE BENEFITS**

Generally, **3:10**  
 Employment contracts, **5:19**

## LAW OF DAMAGES

### **FRINGE BENEFITS—Cont'd**

Wrongful dismissal, **5:19**

### **“FUNCTIONAL” APPROACH TO NON-PECUNIARY LOSSES**

See also NON-PECUNIARY LOSS

Generally, **3:8, 7:13**

Injuries less than catastrophic,  
**3:8.70**

Rough upper limit, **3:8.30**

### **FUNERAL EXPENSES**

Survival actions, **12:13**

Wrongful death, **6:10**

### **GIFTS**

Collateral benefits, **15:11**

Personal injury, **3:36**

Wrongful death, **6:15**

### **“GLOBAL” AWARD**

Generally, **3:3**

### **GOLD CLAUSES**

Generally, **7:2**

### **GOODWILL, LOSS OF**

Generally, **5:16**

### **GROSS-UP**

Generally, **3:27**

### **HARBOURING**

Generally, **2:5**

### **HEALTH INSURANCE**

Generally, **3:24**

Benefits, **3:43**

### **HIRE**

See BAILMENT

### **HOMEMAKER**

See HOUSEKEEPER

### **HOUSEKEEPER**

Earning capacity of, **3:12**

Wrongful death, claim for, **6:2, 6:20**

Wrongful death of, **6:11, 6:22**

### **ILLEGALITY**

Generally, **3:8, 3:13**

### **IMPECUNIOSITY**

Generally, **15:8**

### **IMPROVEMENT TO PROPERTY BY REPAIRS**

Generally, **3:8**

### **INCOME TAX**

Computer programs, **3:27**

Cost of care, and, **3:27**

Earning capacity, and, **3:5, 3:17**

Employment contracts, **5:19**

Wrongful death, **6:6**

### **INCONVENIENCE**

Generally, **3:32**

### **INDUCING BREACH OF CONTRACT**

Generally, **2:7, 5:4, 5:13 to 5:17**

### **INDUSTRIAL DESIGN, INFRINGEMENT**

Generally, **5:13 to 5:17**

### **INFLATION**

See also DATE FOR ASSESS-  
MENT OF DAMAGES;  
FOREIGN CURRENCY;  
PERSONAL INJURIES;  
PROPERTY, date for assess-  
ment of damages; SERVICES

Generally, **1:3, 1:7, 3:19**

Adjustment for, **7:2**

Adjustment of non-pecuniary  
awards, **3:8**

Interest and, **7:4**

Nominalism, and, **7:2**

Periodic payments, **3:1**

Resale after buyer's breach, **5:21**

### **INJUNCTIONS**

Liquidated damages, **8:5**

### **INJURIOUS FALSEHOOD**

See BUSINESS LOSS

**INJURY TO FEELINGS**

See INTANGIBLE INJURIES

**INSENTIENT PLAINTIFF**

Generally, 3:8, 3:15

**INSURANCE AGENTS**

Chance of loss, 13:4

Liability of, 2:10

**INSURANCE BENEFITS**

Generally, 3:37, 15:11

Employee, 3:38

Wrongful death, 6:13, 6:14

**INSURANCE PREMIUMS**

Wrongful death, 6:14

**INTANGIBLE INJURIES**

Contract, 3:33, 11:6

Defamation, 4:2, 4:4

Exemplary damages, 3:33

Interest, 7:13

Tort, 3:32

Wrongful death, 6:11, 6:12

**INTEREST**

Admiralty, 7:6

Agreement, 7:4, 7:15

Allowance for on unpaid price, 1:7

As measure of value of use of property, 1:25, 1:28, 1:30, 7:21

As part of sum awarded, 7:27

Common law, 7:6, 7:7

Compound, 7:6, 7:8, 7:23

Consent judgments, 7:24

Consequential damages, as, 7:7

Costs, 7:26

Crown, against, 7:5

Damages measured at judgment date, 7:20

Delay, 7:22

Elements of, 7:4

Exemplary damages, 7:25

Foreign currency, 7:19

Future losses, 7:11, 7:12

Judgment on, 7:27

**INTEREST—Cont'd**

Overlap with compensation for loss of use of property, 1:3, 1:6

Payable by law, 7:16

Payment into court, 7:14

Payment on account, 7:18

Personal injuries, 7:12, 7:13

Pre-trial losses, 7:10

Provincial legislation, 7:8

Rate, 7:9

Reimbursement of plaintiff, 7:17

Remoteness, 15:5

Special damages, 7:10

Wrongful dismissal, 7:10

**INTERFERENCE WITH CONTRACT**

Exemplary damages, 11:6

**INVESTIGATION, COSTS OF**

Generally, 5:18

**JUDGMENT-DATE RULE**

See DATE FOR ASSESSMENT OF DAMAGES; FOREIGN CURRENCY

**JURIES**

Generally, 3:8

Appellate review, 13:6

Defamation, 4:2

Exemplary damages, 11:9

**LAND, DAMAGE TO**

Generally, 1:29 to 1:39, 13:7

**LEASE**

See also BAILMENT

Lessee's covenant to repair, 1:29

Lessor's claim for rent, 15:9

Lessor's failure to make title, 1:20

Non-payment by lessee, 5:21, 15:11

Overholding tenant, 9:2

Tenant's failure to repair, 1:29

**LIABILITY TO THIRD PARTIES**

Generally, 1:27

LAW OF DAMAGES

**LIBEL**

See DEFAMATION

**LIMITATION OF LIABILITY**

Generally, 8:4

**LIQUIDATED DAMAGES**

Generally, 8:1 to 8:9

Exemption clauses, and, 8:8

Forfeiture clauses, and, 8:7

Freedom of contract, and, 8:9

Specific relief, 8:5

Sum exceeding judicial estimate,  
8:6

**LORD CAIRNS' ACT**

See EQUITABLE DAMAGES

**LORD CAMPBELL'S ACT**

See WRONGFUL DEATH

**LOSS**

See PROPERTY

**LOSS OF AMENITIES**

Survival actions, 12:5

**LOSS OF BARGAIN**

See BREACH OF CONTRACT

**LOSS OF CHANCE**

See CHANCE, LOSS OF

**LOSS OF COMPANIONSHIP**

See WRONGFUL DEATH,  
intangible losses

**LOSS OF CONSORTIUM**

Generally, 2:4

**LOSS OF EARNINGS**

Generally, 5:19, 13:5, 15:6

**LOSS OF EXPECTATION OF  
LIFE**

Generally, 3:8

Survival actions, 12:7

**LOSS OF GOODWILL**

Generally, 5:16

**LOSS OF OPPORTUNITY TO  
BARGAIN**

Generally, 1:4, 1:5, 1:25, 5:17, 9:2,  
13:3

**LOSS OF OPPORTUNITY TO  
FORM INTERDEPENDENT  
RELATIONSHIP**

Generally, 3:23

**LOSS OF PROFITS**

Generally, 5:16

**LOSS OF SALES**

Generally, 5:21

**LOSS OF USE OF PROPERTY**

Generally, 1:1, 1:3, 1:21 to 1:28,  
1:35

**LOST VOLUME**

Generally, 5:21, 15:11

Onus of proof, 13:2

**"LOST YEARS"**

Generally, 3:15, 6:22, 12:11

**MANAGEMENT FEES**

Generally, 3:21, 3:30

**MARRIED WOMAN**

Claim for medical expenses, 3:6

**MASTER AND SERVANT**

See EMPLOYMENT  
CONTRACTS

**MEDICAL EXPENSES**

Incurred by third parties, 2:2

**MEDICAL MALPRACTICE**

See PERSONAL INJURIES

**MENTAL DISTRESS**

See INTANGIBLE INJURIES

**MINING CASES**

Value added to property by  
defendant, 1:4

**MISREPRESENTATION**

Consequential damages, 5:8

**MISREPRESENTATION—Cont'd**

Contractual measures of damages, **5:8**  
 Exemplary damages, **11:6**  
 Fraudulent, **5:8**  
 Innocent, **5:10**  
 Negligent, **5:9**  
 Statutory provisions, **5:11**  
 Warranty, and, **5:7**

**MITIGATION**

See also **BUSINESS LOSS**  
 Acquisition of substitute by buyer, **1:6**  
 Anticipatory repudiation, **1:13, 15:9**  
 Avoidable loss, **15:6**  
 Avoided loss, **15:11**  
 Basis of rule, **15:4**  
 Burden on plaintiff, **15:6**  
 Chance of avoiding loss, **15:10**  
 Date for assessment of damages  
     see **DATE FOR ASSESSMENT OF DAMAGES; PROPERTY**  
 Defamation, in, **4:4**  
 “Duty” to mitigate, **15:4**  
 Employment contracts, **15:9**  
 Expenses incurred in, **15:7**  
 Expenses to avoid larger loss, **1:28**  
 Foreign currency, **7:3**  
 Impecuniosity, **15:8**  
 Improvement of property by repairs, **1:39**  
 Offer by wrongdoer, **15:6**  
 Onus of proof, **13:2**  
 Payment by wrongdoer, **15:12**  
 Personal injuries, **15:6, 15:11**  
 Remoteness, and, **15:5**  
 Service contracts, **5:19**  
 Specific performance, and, **15:9**

**MONEY, FAILURE TO PAY**

See also **FOREIGN CURRENCY; INFLATION; INTEREST; NOMINALISM**  
 Generally, **7:7, 15:8**

**MONEYLENDING CONTRACT**

Generally, **7:7, 15:8**

**MOONLIGHTING**

See **PART-TIME EARNINGS**

**NEGLIGENT**

**MISREPRESENTATION**

Generally, **5:9**

**NEUROSIS**

Generally, **3:8**

**“NO FAULT” INSURANCE**

**BENEFITS**

Generally, **3:44**  
 Wrongful death, **6:14**

**NOMINAL DAMAGES**

Generally, **10:1 to 10:3**

**NOMINALISM**

Generally, **7:2**

**NON-PECUNIARY LOSS**

See also **PERSONAL INJURIES**  
 Generally, **3:8**  
 Defamation, and, **4:2**  
 Injuries less than catastrophic, **3:8.70**  
 Interest, **7:13**  
 Rough upper limit, **3:8.30**  
 Survival actions, **12:3**

**NUISANCE**

Exemplary damages, **11:6**  
 Intangible injuries, **3:32**

**OIL AND GAS LEASES**

Failure to drill, **1:29**

**OMNIA PRAESUMUNTUR CONTRA SPOLIATOREM**

Generally, **13:3**

**ONUS OF PROOF**

Generally, **13:2**  
 Lost volume, **13:2**  
 Mitigation, **13:2**  
 Remoteness, **13:2**

LAW OF DAMAGES

**OPTIONAL PERFORMANCE**

Generally, 13:5

**OVERHEAD COSTS**

Generally, 1:29, 5:19

**PAIN AND SUFFERING**

Generally, 3:8

Pre-trial, 3:8

Survival actions, 12:8

**PART-TIME EARNINGS**

Generally, 3:10

**PASSING OFF**

Generally, 5:13 to 5:17

Reputation, 4:5

**PASSING ON, DEFENCE OF**

Generally, 15:11

**PATENT INFRINGEMENT**

Generally, 5:13 to 5:17, 9:2

**PAYMENT INTO COURT**

Interest, 7:14

**PENAL BONDS**

Generally, 8:1

**PENAL DAMAGES**

Generally, 11:1

**PENALTY CLAUSES**

Generally, 8:1 to 8:9

**PERIODIC PAYMENTS**

Generally, 3:1

Wrongful death, 6:16

**PERSONAL INJURIES**

Claim by third party, 3:22, 3:34, 3:36, 5:20

Collateral benefits, 3:35 to 3:44, 15:11

Cost of care, 3:24 to 3:31

overlaps, 3:20, 3:28, 3:29

plaintiff foregoing reasonable treatment, 3:31

reasonableness, 3:25

Cost of pre-trial care, 3:6

**PERSONAL INJURIES—Cont'd**

Earning capacity, overlaps, 3:20, 3:28

Good faith and fair dealing, 3:33

Interest, 7:12, 7:13

Itemization, 3:3

Mitigation, 15:6, 15:11

Non-pecuniary loss

injuries less than catastrophic, 3:8.70

overlaps, 3:20, 3:29

rough upper limit, 3:8.30

scale of compensation, 3:8

Pre-existing condition, 14:19

Pre-trial expenses, 3:6, 3:7

Pre-trial pecuniary loss, 3:4 to 3:7

Purpose of award, 3:2

Services donated to plaintiff, 3:6

**PERSONALITY,**

**APPROPRIATION OF**

Generally, 9:2

**PERSONAL LIVING EXPENSES**

Generally, 3:15

**PRESUMPTIONS AGAINST  
WRONGDOER**

Generally, 13:3

**PRIVACY, INVASION OF**

Generally, 3:32

**PROFESSIONS**

Failure to give sound advice, 2:10

**PROFIT, LOSS OF**

See BUSINESS LOSS; PROPERTY

**PROPERTY**

“Actual loss,” 1:2, 1:9, 1:10, 1:23, 1:31, 1:33

Advance payment by buyer, 1:6

Available market, 1:9, 1:12

Buyer's damages for non-delivery, 1:7

“Crystallization” of loss, 1:6, 1:13

**PROPERTY—Cont'd**

Date for assessment of damages, **1:6, 1:30**  
 Decline in value, **1:23**  
 Defects, **1:29 to 1:39**  
 Expense of hiring substitute, **1:28**  
 Expenses, **1:28**  
 Expenses saved by wrong, **1:11**  
 Illegal use by defendant, **1:4, 1:9**  
 Improvement by repairs, **1:3, 1:39**  
 Interest on value, **1:22, 7:21**  
 Intrinsic value, **1:3**  
 Liability to third parties, **1:27, 1:28, 1:38**  
 Loss, meaning of, **1:2**  
 Loss of profit on sales, **1:8**  
 Loss of profits from use, **1:24**  
 Loss of use, **1:1, 1:3, 1:6 to 1:28, 1:35**  
 Non-profit-making chattels, **1:3, 1:25**  
 Plaintiff's acquisition of substitute, **1:10**  
 Plaintiff with limited interest, **1:16**  
 Proprietary interest, **1:6**  
 Replacement, cost of, **1:12**  
 Resale after buyer's breach, **5:21**  
 Restoration, cost of, **1:29**  
 Retailer's stock, value of, **1:5**  
 Sentimental value, **1:3**  
 Specific performance, buyer's right of, **1:6, 1:7**  
 Storage charges, **1:11**  
 Successive incidents, damage by, **1:31**  
 Transport costs, **1:11**  
 Underuse by plaintiff, **1:9**  
 Unique property, **1:6**  
 Use, loss of, **1:1, 1:3, 1:21 to 1:28, 1:35**  
 Used goods, value of, **1:3**  
 Value, **1:3, 1:21**  
 Value added by defendant, **1:4**  
 Value added by plaintiff, **1:5**

**PROPERTY—Cont'd**

Variation between buying price and selling price, **1:3**

**PROSPECTIVE DAMAGE**

Generally, **13:7**

**PROVOCATION**

Generally, **15:3**

**PSYCHOLOGICAL INJURIES**

Generally, **3:8**

**PUBLIC POLICY**

Generally, **14:23**

**PUNITIVE DAMAGES**

See EXEMPLARY DAMAGES

**REASONABLE LICENCE FEE**

Generally, **1:4, 1:5, 1:25, 5:17, 9:2, 13:3**

**RELIANCE**

See EXPENSES

**RELIANCE INTEREST**

Generally, **5:3**

**REMARRIAGE**

Appeal, **13:7**

Wrongful death, **6:16, 6:22**

**REMOTENESS**

Buyer's loss of profits, **1:8**

Contract and tort, **14:21**

Contracts, **14:2 to 14:11**

Criminal acts, **14:20**

Damage caused by seller's breach of warranty, **1:34**

Degree of probability, **14:5**

Efficiency, **14:11**

Expenses, **5:5**

Express agreement, effect of, **14:9**

Fiduciary duty, breach, **14:22**

Foreseeability, **14:15, 14:18, 14:21**

Intangible injuries, **3:33**

Intention of parties, **14:4**

Intervening acts, **14:10, 14:20**

Law or fact, **14:14**

## LAW OF DAMAGES

### REMOTENESS—Cont'd

Loss of profit caused by detention of property, **1:26**  
Misrepresentation, **5:8**  
Mitigation, and, **15:5**  
Onus of proof, **13:2**  
Predisposition to damage, **14:16**  
Pre-existing condition, **14:19**  
Proximate cause, **14:13**  
Public policy, **14:20**  
Suicide, **14:20**  
Torts, **14:12 to 14:23**  
Type of contract, **14:7, 14:8**  
Type of damage, **14:6, 14:17**

### REPLEVIN

Generally, **1:6**

### REPUDIATION

See ANTICIPATORY REPUDIATION

### RESALE OF PROPERTY AFTER BUYER'S BREACH

Generally, **5:21**

### RESTITUTION

Generally, **9:1 to 9:5**  
Breach of contract, and, **1:29, 9:5**  
Exemplary damages, **9:2, 11:3**  
Mitigation, and, **15:12**  
Proprietary remedies, **9:3**  
Unrequested benefits, **1:4**  
Value of services, **5:19**

### RESTORATION, COST OF

Generally, **1:29**

### RESTRICTIVE COVENANT, BREACH OF

Generally, **9:2**

### RETRIBUTORY DAMAGES

Generally, **11:1**

### RULES OF DAMAGE ASSESSMENT

Generally, **1:3, 1:6, 1:8, 1:31**

### SALE OF GOODS

Available market, **5:21**  
Breach of condition of quality, **15:6**  
Breach of warranty of quality, **1:32 to 1:38, 13:3, 15:11**  
business loss, **5:13 to 5:17**  
Buyer's anticipatory repudiation, **5:21**  
Delayed delivery, **1:21 to 1:28**  
Non-acceptance, **5:21**  
Non-delivery  
action for, **1:2**  
buyer's damages for, **1:1, 1:3, 1:12, 1:26, 1:35**  
Price, action for, **5:21**  
Rejection, **1:14**  
Resale by buyer, **15:11**  
Resale by seller, **15:11**

### SALE OF LAND

See also PROPERTY  
Defects in title, **1:20**  
Purchaser's damages, **15:5, 15:6**  
Vendor's action for damages, **5:21**  
Vendor's action for price, **5:21**

### SALES, LOSS OF

Generally, **5:21**

### SEDUCTION

Generally, **2:5**

### SELF-HELP

Generally, **1:6**

### SERVICES

See also EMPLOYMENT CONTRACTS  
Actio per quod servitium amisit, **2:2, 2:3, 5:20**  
Breach by employee, **2:1, 2:10, 5:19, 15:11**  
Breach by employer, **5:19, 13:5, 15:6**  
Date for assessment of damages, **2:10**  
Defective services, **2:10**

**SERVICES—Cont’d**

Failure to render, **2:1**  
 Interference by third party, **2:2 to 2:7**  
 Liability to third parties, **2:10**  
 Wrongful death, **6:11**

**SETTLEMENTS, STRUCTURED**

Generally, **3:1**

**SHARES**

Controlling interest, **1:3**  
 Mitigation, **15:9**  
 Resale after buyer’s breach, **5:21**  
 Value of, **1:3, 1:6, 1:19**  
     misrepresentation, **5:8**

**SLANDER**

See DEFAMATION

**SLANDER OF TITLE**

Exemplary damages, **11:6**

**SOLICITOR**

Failure to detect defect in title to land, **2:10**  
 Intangible injuries to client, **5:3**  
 Loss of chance, **13:4**  
 Onus of proof of loss, **13:3**

**SPECIAL DAMAGES**

Generally, **1:12, 1:32, 3:5**  
 Interest, **7:10**  
 Slander, **4:1**

**SPECIFIC PERFORMANCE**

Generally, **1:29, 5:1, 5:2**  
 Foreign currency, **7:3**  
 Liquidated damages, **8:5**  
 Mitigation, and, **15:9**  
 Restitution, and, **9:5**  
 Vendor’s right to, **15:9**

**SPORTING PRIZES**

Generally, **3:10**

**“STRING” CONTRACTS**

Generally, **1:8**

**STRUCTURED SETTLEMENTS**

Generally, **3:1**

**SUBSEQUENT EVENTS**

Generally, **1:6, 1:24, 1:31**

**SUICIDE**

Remoteness, **14:20**

**SURVIVAL ACTIONS**

Administration costs, **12:14**  
 Breach of promise of marriage, **12:10**  
 Common law, **12:1**  
 Death, damages for, **12:6**  
 Disfigurement, **12:4**  
 Earning capacity, **12:11**  
 Exclusions, **12:2**  
 Exemplary damages, **11:12, 12:9**  
 Funeral expenses, **12:13**  
 Loss of amenities, **12:5**  
 Loss of expectation of life, **12:7**  
 Loss or gain to estate, **12:12**  
 Loss to estate, **12:3**  
 Non-pecuniary loss, **12:3**  
 Pain and suffering, **12:8**  
 Voluntary services, **12:3**  
 Wrongful death, and, **6:22**

**SYMBOLIC DAMAGES**

Generally, **10:4**

**TAXATION**

See INCOME TAX

**“THIN SKULL” RULE**

Generally, **14:16**

**TOKENS, VALUE OF**

Generally, **1:5**

**TRADE LIBEL**

Generally, **5:13 to 5:17**  
 Reputation, **4:5**

**TRADE MARK INFRINGEMENT**

Generally, **5:13 to 5:17**

LAW OF DAMAGES

**TRAINING**

Generally, 9:3

**TRANSPORT, COST OF**

Generally, 1:3

**TRAVEL AGENT**

Intangible injuries of customer, 3:33

**TRESPASS**

See also PROPERTY

Generally, 1:18, 9:2

Exemplary damages, 11:6

Value added to property by defendant, 1:4

**TRESPASS TO GOODS**

Reputation, 4:5

**TRUST**

Breach of, 9:4

Constructive, 9:4

**UNCONSCIONABILITY**

Liquidated damages, 8:1, 8:9

**UNCONSCIOUS PLAINTIFF**

Generally, 3:8, 3:15

Injuries less than catastrophic, 3:8.70

**UNDERTAKERS, LIABILITY OF**

Generally, 3:32

**UNEMPLOYMENT INSURANCE BENEFITS**

Generally, 3:41

**UNIFORMITY OF AWARDS FOR NON-PECUNIARY LOSS**

Generally, 3:8

**USE OF PROPERTY, LOSS OF**

Generally, 1:1, 1:3, 1:21 to 1:28, 1:35

**VALUE**

See PROPERTY

**“VEGETABLE” CASES**

See UNCONSCIOUS PLAINTIFF

**VINDICTIVE DAMAGES**

Generally, 11:1

**VOLUNTARY SERVICES**

See also COLLATERAL BENEFITS; PERSONAL INJURIES; WRONGFUL DEATH

Generally, 3:6, 3:36

Survival actions, 12:3

**WAGES, RECOVERY OF**

Generally, 5:19

**WAIVER OF TORT**

Generally, 1:4, 9:2

**WARRANTY OF AUTHORITY, BREACH OF**

Generally, 5:5

**WAY-LEAVE CASES**

Generally, 9:2

**WELFARE BENEFITS**

Generally, 3:39, 15:11

Wrongful death, 6:14

**WORKERS COMPENSATION BENEFITS**

Generally, 3:42

**WRONGFUL COMPETITION**

See COMPETITION, WRONGFUL

**WRONGFUL DEATH**

Administration costs, 6:10

Benefits from estate, 6:13

Child claimant, 6:2

Child deceased, 6:8, 6:12

Claimant's earning capacity, 6:20

Contingencies, 6:17

Contributory negligence, 6:22

Corporation employing deceased's services, 6:1

Dependency, 6:1, 6:22

Discounting, 6:4

Division of damages, 6:21

**WRONGFUL DEATH—Cont'd**

Funeral expenses, **6:10**  
 Gifts, **6:9, 6:15**  
 Housekeeper, **6:2, 6:22**  
 Income tax, **6:6**  
 Insurance benefits, **6:13, 6:14**  
 Insurance premiums, **6:2**  
 Intangible losses, **6:11, 6:12, 6:22**  
 Interest, **7:12**  
 Limits, **6:12**  
 Medical expenses, **6:10**

**WRONGFUL DEATH—Cont'd**

Pecuniary loss, **6:1, 6:11, 6:12**  
 Pension, **6:7**  
 Pre-trial loss, **6:5**  
 Remarriage, **6:16**  
 Savings, **6:3**  
 Services, **6:11**  
 Survival of actions, and, **6:22**

**WRONGFUL DISMISSAL**

Generally, **5:19, 13:5, 15:6, 15:11**