



COVERED CASES

CAR ALLOWANCES – HOW ARE THESE CALCULATED?

Kearney v WorkCover Corporation (Hilmore Pty Ltd trading as Gurney's Cheaper Car Centre)

[2001] SAWCT 6

The question of how to estimate the value of an employer funded motor vehicle is arising more frequently as more workers incorporate this benefit into salary packages.

The issue was recently considered in Kearney v WorkCover Corporation (Hilmore Pty Ltd trading as Gurney's Cheaper Car Centre) [2001] SAWCT 6 which provides some guidance when calculating the value of average weekly earnings entitlements.

Some of the issues relevant to the question include:

- Who pays for the servicing of the vehicle.
- Who pays for the petrol.
- Who pays for insurance, registration etc.
- What was the permitted level of usage.

Generally the employer is responsible for all of these and the worker effectively obtains free personal use of the vehicle. It is this benefit which needs to be converted into dollars for the purpose of calculating average weekly earnings.

The calculation is quite simple if the worker's salary package specifically states the value of the motor vehicle which can then be converted into a weekly average.

Difficulties generally only arise where the value is not specifically stated.

In Cleggett v Coca Cola Amatil A156/1995 it was held that the value of the financial loss should be calculated by reference to the actual cost the worker would have incurred had he provided the benefit to himself/herself.

In Kearney the worker's representative submitted that the Trial Judge should have regard to three different documents to assist him in making the necessary calculations. These included:

- (a) A copy of a table of operating costs for private vehicles published in SA Motor magazine. This set out the running and other costs (depreciation, registration etc) of various motor vehicles at five years of age.
- (b) A schedule of running costs for business cars and private cars for 1999/2000 published by the RAA.
- (c) A taxation ruling namely a fringe benefit tax calculation ruling entitled the Taxable Value of New Demonstrator Motor Vehicles and Used Car Stock of Motor Vehicle Dealers Available for Private Use of the Employees.

His Honour in considering these three documents, placed little weight on the table prepared for SA Motor magazine on the basis that it dealt with motor vehicles of five years of age or with different models not comparable to the type of vehicle supplied to the worker. He did however find the table useful as a guide to the *components* that constitute the cost of a motor vehicle.

Similarly he placed little weight on the schedule of running costs, observing that that document did not refer to any vehicles comparable to the one provided to the worker. His Honour obtained some assistance from that table in that he observed that motor vehicles depreciate at a rate of 13.69% per annum after three years

Finally, His Honour also rejected the approach based upon the taxation ruling as this was difficult to understand and apply.

He then calculated the value of the motor vehicle as follows:

- The worker's 1991 VN Calais had been advertised for sale in car yards for between \$16,999.00 to \$18,999.00.
- The book valuation of a 1991 VN Calais was between \$10,500.00 and \$14,300.00 (using Glass's Industry Dealers Guide for January 1999).
- A Glass's evaluation of a Falcon GLI was between \$7,200.00 and \$10,000.00.

Using this information His Honour established a retail value of \$13,000.00.

He then proceeded to calculate the worker's entitlement as follows:

- Value of the motor vehicle - \$13,000.00.
- Depreciation at 13.69% - \$1,708.00.
- Lost opportunity cost (the interest the capital would have attracted had the worker not had to purchase a car): 7% of \$13,000.00 - \$910.00.
- Registration - \$500.00.
- Insurance - \$380.00.
- Fuel - \$2,600.00.
- Service and repairs - \$300.00.

This provided a weekly total of \$129.42 or \$0.37 per kilometre. His Honour fixed the value of the motor vehicle at \$130.00 per week.

To summarise, it will be beneficial to obtain as much information as to the cost of registration, insurance, fuel, tyres, service and repairs etc as possible in order to adequately perform these calculations. A valuation of the motor vehicle is essential.