Progressive Future Loss of Income (New Career Impact Allowance)

Recommendation

Establish a newly structured Career Impact Allowance that would reflect the following standard of compensation: "What would the veteran have earned in their military career had the veteran not been injured?" This form of progressive income model, which has been recommended by the Ministerial Policy Advisory Group (MPAG) and the Office of the Veterans Ombud (OVO), would be unique to the New Veterans Charter/Veterans Well-being Act (NVC/VWA) and would bolster the potential lifetime compensation of the disabled veteran as to their projected lost career earnings, as opposed to the nominal one per cent increase provided in the recently adopted legislation.

(i) NCVA encourages VAC to revisit the MPAG proposition of consolidating the Income Replacement Benefit and a newly structured Career Impact Allowance to provide a single stream of income for life that would include the "projected career earnings" approach.

(ii) Access to the new structured Career Impact Allowance should be available through the lifetime of the veteran, providing a financial safety net that includes application to pre- and post-release income scenarios.

As a matter of legislative history, it is to be noted that VAC converted the former Career Impact Allowance and the Career Impact Allowance Supplement into the Additional Pain and Suffering Compensation benefit as part of the Pension for Life transition enactment. It remains the position of NCVA, in concert with the Policy Advisory Group, that the department should revisit this legislative model for career impact funding and address the future loss of income suffered by a disabled veteran on the basis of the following fundamental question – "What would the disabled veteran have earned in their projected military career if the veteran had not been injured?" – as opposed to the nominal consumer price index increase in the Income Replacement Benefit provided in the current legislation.

A number of members of NCVA and the MPAG indicated a serious concern that the current income replacement program leaves lower-ranked CAF members at a minimal level of income replacement for life in circumstances where such a veteran qualifies for the VAC Diminished Earning Capacity program or the Service Income Security Insurance Plan Long-Term Disability benefit.

It has been our position from the outset that the financial benchmarks for a progressive income model can be established in accord with the various reports emanating from the OVO over recent years and as proposed by the New Veterans Charter Advisory Group in 2009, together with MPAG recommendations on these important income calculations. These evaluations have demonstrated the relative predictability of the elevation of a CAF member through their military career in recognizing the specific ranks the member would have achieved had the member not been injured.

It is also of considerable import that the Canadian civil courts, over the last number of decades, have evaluated the cases of severely injured plaintiffs by consistently applying the concept of future loss of income in assessing monetary damages. In a similar fashion to the proposals emanating from NCVA and the MPAG on the progressive income replacement model, the courts consider the probable career earnings of an injured plaintiff from the perspective of future loss of income or, alternatively, future loss of earnings capacity as part and parcel of the damage award granted to plaintiffs in the Canadian judicial system.

It is of interest that, in the context of VAC, the department has a distinct advantage over the courts, as the judicial system only has "one bite at the apple" at the time of the court hearing or settlement. VAC, on the other hand, is able to monitor the income position of a disabled veteran throughout their life to determine the differential between the benchmark established by this newly structured benefit for career impact funding and the actual income received by the veteran. Query: why should an injured Canadian veteran receive less than an injured plaintiff with reference to "future loss of income?" We have, in effect, paralleled the disability award (Pain and Suffering Compensation) under the NVC/VWA with the general pain and suffering damage awards in the Canadian courts – why not replicate the philosophy of the future loss of income concept as well?

While there was no direct response, the Standing Committee on Veterans Affairs included mention of "the importance of family" and wanting to ensure that a family member can obtain immediate mental health support. However, there are still many recommendations outlined in the 2023 MPAG report that remain unaddressed.