

Courts of Justice Act, RSO 1990, c C.43

Periodic payment and review of damages

116. (1) In a proceeding where damages are claimed for personal injuries or under Part V of the [Family Law Act](#) for loss resulting from the injury to or death of a person, the court,

(a) if all affected parties consent, may order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just; and

(b) if the plaintiff requests that an amount be included in the award to offset any liability for income tax on income from the investment of the award, shall order the defendant to pay all or part of the award periodically on such terms as the court considers just. [R.S.O. 1990, c. C.43, s. 116 \(1\)](#); 1996, c. 25, s. 1 (20).

No order

(2) An order under clause (1) (b) shall not be made if the parties otherwise consent or if the court is of the opinion that the order would not be in the best interests of the plaintiff, having regard to all the circumstances of the case.

Best interests

(3) In considering the best interests of the plaintiff, the court shall take into account,

(a) whether the defendant has sufficient means to fund an adequate scheme of periodic payments;

(b) whether the plaintiff has a plan or a method of payment that is better able to meet the interests of the plaintiff than periodic payments by the defendant; and

(c) whether a scheme of periodic payments is practicable having regard to all the circumstances of the case.

Future review

(4) In an order made under this section, the court may, with the consent of all the affected parties, order that the award be subject to future review and revision in such circumstances and on such terms as the court considers just.

Amount to offset liability for income tax

(5) If the court does not make an order for periodic payment under subsection (1), it shall make an award for damages that shall include an amount to offset liability for income tax on income from investment of the award. [R.S.O. 1990, c. C.43, s. 116](#) (2-5).