

8.11 DAMAGES CHARGES — GENERAL

D. LOSS OF PROFITS (pre-1983)

The measure of damages for loss of profits to a plaintiff who is an owner of a business is the value of the plaintiff's services in carrying on that business which were lost as a proximate result of his/her injuries. In determining the value of the plaintiff's services, the jury should take into consideration the nature of the business, the capital, assets and personnel employed, the average weekly (or monthly) profits earned before and after the accident and any expense to which the plaintiff was put to hire others to perform services which he/she had previously performed himself/ herself.

Cases:

Woschenko v. Schmidt & Sons, 2 N.J. 269, 278 (1949): "The value of his services is manifestly worth more than the mere cost of hiring another temporarily to fill his place. The thorough knowledge of the business thus acquired together with personal acquaintance with the customers has a value in the commercial world readily recognized by any business man. The evidence must be such as to directly point up the value of the plaintiff's services in the operation of the business in which case it is not conjectural."

East Jersey Water Co. v. Bigelow, 60 N.J.L. 201 (E. & A. 1897). Damages may be awarded for future loss of profits if capable of being estimated with a reasonable degree of certainty.