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PJI can be Compound Interest - SCC

The recent decision by the Supreme Court of Canada decided in favour of compound pre-judgment interest, rather than simple pre-judgment interest.

Implications

Broadly, this means the interest on damages will likely be larger than it would have been under a calculation of simple interest. This will have the effect of: a) making a delay more expensive for an unsuccessful defendant, and b) making a delay less expensive for a successful plaintiff.

Key Issues

As with many things, the "devil is in the details". The exact amount of interest calculated depends upon many variables beyond the distinction between simple and compound interest. For example:

- the date at which the interest clock starts, and
- the use of one rate through the entire period versus different rates by quarter.

A Numerical Example

Assume a damages award of $100,000 for five years, at an annual rate of 10%. Simple interest is $50,000, compound interest is $61,051, a difference of $11,051.

Extracts from the Decision

Justice Jack Major wrote:

"Although both simple interest and compound interest measure the time value of the initial sum, the principal, compound interest reflects the time-value component to interest payments while simple interest does not. … Compound interest is the norm in the banking and financial systems, and is the standard practice of the appellant and the respondent, which were both in the business of lending.

"In this case, the trial judge (Superior Court Justice James Farley) was correct in awarding compound pre- and post-judgment interest. His award yields a satisfactory result with respect to both expectation damages and restitution damages" (text in round brackets added).

Bank of America Canada v. Mutual Trust Co. 2002 SCC 43. File No.: 27898

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