

## **Civ. J.I. 13.1803 Earnings.**

instructions to jury thereon, 18 A.L.R.3d 88.

### **13-1803. Earnings.**

Statute text

**The value of lost earnings [and the present cash value of earning capacity reasonably certain to be lost in the future].**

#### **DIRECTIONS FOR USE**

This instruction is to be used in conjunction with UJI 13-1802. Standing alone the instruction is not complete.

The first part of the instruction is to be used for lost earnings to date of trial and, when there is an issue supported by the evidence concerning lost earning capacity in the future, then the bracketed material is to be used.

When future damages are involved, the jury will need to be instructed with reference to discounting present dollars in order to arrive at the "present cash value".

#### **Annotations**

**Committee comment.** - Loss of earnings of a minor during minority belong to the parent or legal guardian and are not a proper element of damages for the minor. A minor plaintiff is entitled only to those lost earnings which accrue after majority. A separate instruction is included in this chapter on that matter.

**Library references.** - 25A C.J.S. Damages § 185.

#### **COMPILER'S ANNOTATIONS**

**Evidence sufficient for instruction.** - Testimony of plaintiff in a personal injury case that since the accident she had not been able to perform her usual occupation of housework for pay because of headaches and pain, along with that of experts who testified that they found objective evidence of pathology, was sufficient evidence to justify the instruction on loss of future earning capacity. *Selgado v. Commercial Whse. Co.*, 86 N.M. 633, 526 P.2d 430 (Ct. App. 1974).

**Earnings of crime victims.** - Earnings are properly includable within "actual damages" to be awarded crime victims, as contemplated by 31-17-1A(2) NMSA 1978. *State v. Lack*, 98 N.M. 500, 650 P.2d 22 (Ct. App. 1982).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** - 22 Am. Jur. 2d Damages § 356.

Sufficiency of evidence, in personal injury action, to prove impairment of earning capacity and to warrant