



EXEMPLARY DECISION BY THE HIGH COURT OF JUSTICE IN THE CITY OF BUENOS AIRES ABOUT INTEREST RATE FOR WORKERS' COMP AWARDS

By Julián A. de Diego

This court ruling is a step in the right direction. **The High Court of Justice in the City of Buenos Aires** found that **workers' compensation awards** should be **adjusted according to RIPTE** (Average Taxable Remuneration of Stable Workers), overturning a decision by the Court of Appeals that combined several formulas that resulted in disproportionate awards.

Actually, in re "**Valdez, Carlos Alberto v ASOCIART S.A. Workers' Comp Insurance Company (ART) on injury**", with a majority vote by **Inés Weimberg de Roca, Marcela de Langhe and Santiago Otamendi**, and one dissident opinion, the High Court held that the **RIPTE** (which measures wage trends) applied to cases filed before 2019 and therefore rejected a combination of formulas or the **INDEC CPI**, as appropriate, as it resulted in disproportionate and unreasonable awards.

There was already a precedent by the same Court in re "**Boulanger v Provincia ART Seguros**", which meant a significant ratification of case law.

Both court rulings are contrary to the decisions by the **National Labor Court of Appeals**, which used a combination of formulas and applied the **INDEC CPI**, a much higher and unreasonable rate as compared to the changes in wages accounted

for by the **RIPTE**, which reflects reality more accurately to match every year's adjustment.

In the case under analysis, the Claimant **Carlos Valdez** was a machinist with Gráfica Cortiñas. He sued the Workers' Comp Insurance Company and his employer because of his work-related condition: **low back pain as a result of discopathy, varicose veins and wrist tendonitis**. He filed an appeal to challenge the determined disability rating. His appeal was rejected. Anyway, the Court of Appeals used a formula that ultimately was not proportionate to the original claim, according to expert witnesses' reports submitted to the acting Lower Court.

Panel IV of the National Labor Court of Appeals awarded an unreasonable and disproportionate amount by applying the **INDEC CPI plus a 3% annual interest rate**.

Contrary to this court decision and considering the claim filed by the Workers' Comp Insurance Company, **the High Court of Justice in the City of Buenos Aires found that the RIPTE should be used** instead to award a lower and more reasonable amount.

In connection with the damages awarded outside the labor and employment law framework, the High Court also ordered that awards should be adjusted using reasonable interest rates, thus rejecting the **lending interest rate of Banco Nación, and keeping the 8% rate** imposed by the court, in this case, the Lower Court.

This decision is in line with recent rulings by the **Supreme Court of Justice of Argentina**. Based on the arbitrary and capricious standard, the Supreme Court found that many times the amounts awarded were unreasonable and disproportionate, and ordered to issue new court rulings based on **the rule of reasonableness and fairness**.

As a result, many unreasonable and disproportionate amounts awarded in different cases were significantly lowered.

However, there is widespread uncertainty and mistrust as day after day the courts are still awarding unreasonable and disproportionate amounts. For instance, in a claim for employment termination where the Plaintiff had a five-year tenure, where the amount awarded accounted for around **20-months' salary**, including fines, once interest rates were imposed, the award accounted for **more than one hundred months' salary** at current values.

In addition, it is worth mentioning that court decisions should aim for consistency to ensure the uniform application of laws and **foreseeable legal outcomes**. This is one of the demands unanimously voiced by the business sector, and one of the

arguments they put forward when explaining why they are reluctant to hire new staff and try to use automated systems instead.

Strictly speaking, Argentina is undergoing a process of reshaping the country's future, where it is essential to establish **clear rules and conditions for long-lasting foreseeable outcomes**, especially after so many years of changing policies, uncertain rules, and so many contradictions that fueled mistrust.

The return to **reasonableness and fairness**, in the search for solutions based on the principle of **justice and equity**, is crucial to confirm that Argentina is definitely on a new path to prosperity and recovery of lost trust.