

Limits on Awards in Employment Claims: Pivotal Decisions Expected in 2026

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Nearly a decade after Brazil's 2017 Employment Law Reform – which sought to modernize employment relations, increase legal certainty, and reduce litigation – several issues continue to generate debate in the country's Labor Courts. One of the most consequential for companies is whether the amounts awarded in employment claims should be limited to those specified in the employee's complaint: a question that remains unresolved and continues to shape the employment litigation landscape.

Law 13.467/2017, which implemented the Employment Law Reform, amended article 840§1 of the Consolidation of Labor Laws (CLT – *Consolidação das Leis do Trabalho*) to require that claims in employment complaints be "certain, specific, and indicate their value."

Prior to the Reform, the prevailing position in the Labor Courts was that there was no relationship between the amounts stated in the complaint and those ultimately awarded, since the legislation did not require claimants to stipulate the value of their claims. This led to a significant distortion: cases filed with merely nominal amounts could ultimately expose companies to liabilities in the millions.

Following the change in the law, the Superior Labor Appeals Court (TST – *Tribunal Superior do Trabalho*) sought to soften its impact. In 2018, it issued Instruction IN 41, which provides in article 12§2 that "the amount in dispute shall be estimated," signaling that the figures stated in the complaint should not operate as a strict cap on the amounts ultimately awarded.

This apparent tension between the Reform and the interpretation adopted by the Superior Labor Appeals Court has led to conflicting decisions in the Labor Courts. Judges have split between two main approaches: some view the amounts stated in the complaint as mere estimates that do not bind the court when determining the award, while others treat them as an absolute cap on the amounts that may be granted.

In 2025, in an effort to resolve the issue, the Superior Labor Appeals Court initiated a repetitive appeals procedure (a mechanism used to establish binding precedent for all Labor Courts) to determine whether the amounts stated in the complaint limit judicial awards at both the judgment and enforcement stages. The case remains pending, with a decision expected as early as this year.

In parallel, Constitutional Challenge ADI 6002 is pending before Brazil's Supreme Court (*Supremo Tribunal Federal* – STF). The action was filed by the Brazilian Bar Association (*Ordem de Advogados do Brasil* – OAB) in 2018, arguing that the Reform's requirement that claims in employment

complaints must be given a specific monetary value is unconstitutional. The Court began to hear the case in 2025 on its virtual docket, but it has since been transferred for consideration at an in-person session.

The decisions by the STF and the TST in these two proceedings could significantly reshape companies' employment litigation exposure. They may either consolidate the gains introduced by the 2017 Employment Law Reform or mark a return to the uncertainty that prevailed in judgments by the Labor Courts prior to 2017.

A clear position that awards should be limited to the amounts stated in the complaint would represent a significant step forward in terms of legal certainty for companies. Without assurance that awards will remain within those limits, it becomes much more difficult to assess litigation risk accurately, make appropriate accounting provisions, and take informed strategic decisions, such as negotiating settlements at reasonable levels.

In addition, such an approach would require claimants and their counsel to stand behind the claims they present, promoting greater accountability in employment litigation. It would discourage the practice of understating amounts in the complaint to minimize claimants' downside exposure to the risk of having to pay court-awarded attorneys' fees to the defendant's legal counsel (which are often linked to the value of the claims) if the claim is unsuccessful, without any corresponding upside limit on the amount that may ultimately be awarded to the claimant by the court.

This is an important issue, and companies should closely monitor the outcome of these two proceedings before Brazil's highest courts, as their decisions will directly affect risk assessment, provisioning, and employment litigation strategy.

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