

1 statute expressly contemplates fixed sum awards. And so
2 the -- the --

3 CHIEF JUSTICE ROBERTS: So you have a law
4 that says -- you have a law that says you can't divide
5 disability pay, and yet, you say it's okay to say, well,
6 I'm not going to divide it, but I'm just going to award
7 you an amount equal to what it would be if I divided it.

8 MS. EISENSTEIN: Well, let me be clear.

9 CHIEF JUSTICE ROBERTS: That's the sort of
10 thing that gives, you know, law a bad name. It's
11 just --

12 (Laughter.)

13 CHIEF JUSTICE ROBERTS: It makes a charade
14 out of the statute.

15 MS. EISENSTEIN: Well, your Honor, I
16 respectfully submit that State courts have a lot of
17 experience in treating differently separate property,
18 marital property, separate income, property interest.
19 That is the kind of bread and butter that State
20 courts -- those kind of distinctions are the bread and
21 butter that State courts apply their own state law to.
22 And so this Act --

23 CHIEF JUSTICE ROBERTS: What does -- what
24 does that have to do with my question?

25 MS. EISENSTEIN: So the question is, your