

“COMPENSATION FOR VICTIMS IN TRANSPORT ACCIDENTS - CRITERIA FOR DETERMINING THE APPROPRIATE AMOUNT”

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SUMMARY

The dissertation entitled “Compensation for victims in transport accidents – criteria for determining the appropriate amount” is an attempt to comprehensively look at the issues related to specifying and systematizing the existing criteria for measuring the amount of compensation developed mainly by the judiciary, as well as suggesting new solutions unifying the discussed matter. Tort liability for traffic accidents is an extremely important and complex juridical issue due to the notoriously increasing number of road accidents, as a result of which injured persons suffer bodily injuries, health disorders and even death.

The aim of this doctoral dissertation is an attempt to determine the definition of the "appropriate amount" of compensation for victims of traffic accidents. This is not an easy task due to the legislator's inconsistency in normative acts which should comprehensively regulate the indicated issue. In essence, pursuing claims for damages takes place in two stages. In the first phase, called liquidation proceedings, it is the insurance company or another entity obliged to pay the benefit that decides on the amount of compensation to be paid to the injured person. The second phase, optional, takes place in the event of the aggrieved party's dissatisfaction with the pre-determined amount of the "appropriate amount" of compensation and takes place through civil court proceedings, where the Court reassesses the factors affecting the amount of compensation from the entity obliged to repair the damage each time. The lack of statutory specification of the discussed matter is a source of interpretation difficulties when applying the existing regulations both by insurance companies and common courts. An unequivocal indication of the essence and purpose of specifying the criteria for determining the appropriate amount of compensation will allow for better drafting and application of law in this matter while building the foundations for a sense of equality in society. Specifying and specifying the scheme of conduct in the case of pursuing claims for damages on account of the civil liability of the motor vehicle owned by the injured persons

will allow for ordering and coordinating the key role played by compulsory motor third-party liability insurance.

The dissertation consists of an introduction, six chapters and conclusions and suggestions for changes in legislation. The introduction presents the objectives of the research, as well as an outline of the issues described in them, the theses adopted and the research methodology. The individual chapters discuss various legal aspects regarding the functioning of civil liability for traffic incidents in Poland.

The first chapter is devoted to the creation and development of the institution of compulsory third-party liability insurance for motor vehicle owners in Poland from 1918 to the present.

The second chapter defines the terms relating to the main research issues of determining the "appropriate amount" of compensation, namely what is a civil liability as part of compensation for non-pecuniary damage, and discusses the assumptions, sources, rules and functions that civil liability for damages has in the Polish legal system.

The third chapter characterized the conditions conditioning the emergence of civil liability for traffic damage. In Polish law, civil liability for damages resulting from road accidents is regulated in the Civil Code. To be liable for damages, three conditions must be met: the occurrence of an event with which the legal system links the obligation to repair the damage under certain rules, the occurrence of the damage itself, and the cause-and-effect relation between the event and the damage. Bearing in mind the fact that fault is the guiding principle of liability in the field of a tort, it should be pointed out that the issue of civil liability for damage caused by the movement of any mechanical means of communication moved through natural forces is based on the risk principle. This chapter analyzes these principles and discusses the circumstances excluding strict liability.

The fourth chapter presents the definition of the victim and the variants of claims that the Civil Code suggests to the victims of traffic accidents as compensation for the losses they have incurred - property and personal. Claims for compensation, incurred costs or annuities were analysed, as the issue of the aggrieved party's possible contribution to the occurrence or increase of the damage, and the issue of the statute of limitations for claims of the injured/entitled persons.

The subject of the analysis of section fifth is the characteristics of the role of the insurance company in the trilateral obligation relation between it and the perpetrator of the damage and

the injured person. The effectiveness of insurance companies in the process of determining the "appropriate amount" of compensation was analysed. It also presents the possibility of obtaining compensation under the obligation to repair damage in a criminal trial and the possibility of pursuing claims in common courts in the event of the aggrieved party's dissatisfaction with the amount of compensation set by the insurance company.

The last chapter assesses the rules for the current determination of the appropriate amount of compensation, as well as suggestions for statutory changes in the precise definition of the obligations of the insurance company, the obligations of the injured party, as well as the development of a method for obtaining specific criteria for determining the amount of compensation. The role of the institutions of the Polish Financial Supervision Authority and the Financial Ombudsman in the process of determining the appropriate amount of compensation is also discussed. The final part is an overview of the issues covered in each chapter of the dissertation, a comprehensive assessment of available legal solutions regarding the subject of the paper, as well as recommendations *de lege ferenda*.