

“RS Official Gazette”, 34/2010

Pursuant to Article 26 paragraph 2 of the Law on Compulsory Traffic Insurance (“RS Official Gazette”, number 51/09) and Article 42, paragraph 1 of the Law on Government (“RS Official Gazette” No. 55/05, 71/05-amendment, 101/07 and 65/08),

the Government hereby issues the following

D E C R E E

on Compensations to Persons Suffering Damage

Article 1

This Decree regulates the manner and criteria for the assessment of material damage and the manner and criteria for the assessment of non-material damage, depending on the gravity of bodily injury or affected health, and/or depending on the degree of partial disability for work, as well as the persons entitled to compensation and maximum compensation for pain and suffering due to death or serious disability of another person.

Article 2

The basis for payment of compensation for material and non-material damage shall be the bodily injury of a person in the form of contusions and bruises of a part of the body, damage to or loss of particular parts of the body, permanently affected health, or death of a person.

Article 3

In accordance with the Decree hereof, the material damage in case of death, bodily injury or affected health of a person shall mean any damage sustained by such person due to injury (medical expenses, loss of earnings etc.) and/or damage sustained by a close relative due to the death of a relative.

The compensation referred to in the paragraph 1 of the Article hereof shall include:

- 1) medical and rehabilitation expenses;
- 2) lost earnings during the temporary inability to work;
- 3) lost earnings in case of permanent, partial or total disability for work;
- 4) compensation for loss of support;

- 5) funeral expenses;
- 6) expenses for aid and attendance;

Article 4

Medical and rehabilitation expenses are material expenses incurred in the course of medical treatment and rehabilitation of an injured person in a medical institution and/or in some other type of health service (private practice), including the expenses of administered medical therapy, medications and medical supplies.

Medical and rehabilitation expenses, which were necessary and essential according to the modern achievements of medical science and practice of the Republic of Serbia and/or according to the standards recognized by the insurer, shall be compensated to the amount of actual medical and rehabilitation expenses based on the bill of the medical institution and the itemized statement of rendered medical services and other expenses attached thereto, in accordance with the medical records kept by the medical institution and/or by some other type of health service (private practice).

Article 5

The right to compensation for lost earnings during the temporary inability to work shall have the damaged person who during his/her temporary inability to work was not able to perform his/her regular work duties in accordance with laws and regulations and thus has not earned the income which he/she would have been otherwise entitled to in accordance with the law regulating labor relations (had he/she not sustained bodily injury or had his/her health not been affected in a traffic accident).

The compensation referred to in paragraph 1 of the Article hereof shall be determined based on the difference between the compensation of income the injured person has received during his /her temporary inability to work and the income he/she would have earned if the loss event had not occurred.

The compensation referred to in paragraph 2 of the Article hereof shall be determined as a lump sum.

Article 6

The lost earnings due to a permanent, partial or total disability for work shall be the lost earnings in accordance with the laws and regulations, occurring from the moment when the medical treatment is completed up to the moment until such disability lasts.

In case of permanent partial disability for work the compensation for lost earnings referred to in paragraph 1 of the Article hereof shall be determined based on the difference in the proportion between the income the damaged person has earned before sustaining the injury and the average earnable income in a given business activity in the month in which the damaged person has been injured, and the proportion between income the damaged person

earns after sustaining the injury and the average earnable income in a given business activity in the damaged person's first month of work after sustaining the injury.

In case of permanent total disability for work the compensation for lost earnings referred to in paragraph 1 of the Article hereof shall be determined based on the proportion between the income the damaged person has earned before sustaining the injury and an average earnable income in the given business activity in the month when the damaged person has sustained injury and the average earnable income in the given business activity.

The compensation for the lost earnings referred to in paragraph 2 and 3 of the Article hereof shall be determined as a monthly annuity.

In case of permanently increased needs of a damaged person or his/her diminished capacities for further development and progress, the monthly annuity referred to in paragraph 4 of the Article hereof shall be increased by the compensation for such damage.

Article 7

The compensation for loss of support shall be determined and paid to the person who has been supported or regularly assisted by the person killed in a traffic accident as well as to the person who would have been entitled to claim support from the deceased.

The compensation referred to in paragraph 1 of the Article hereof, in the form of monthly annuity, shall not exceed the amount the damaged person would have received from the deceased.

Article 8

Funeral expenses are expenses necessary to bury the person in accordance with the customs of the place in which the funeral is carried out.

The expenses referred to in paragraph 1 of the Article hereof shall include the expenses of transportation of the deceased to the place of funeral, expenses for purchase of clothing for the deceased, expenses for purchase of a coffin and funeral equipment, expenses for mourning clothing for the closest relatives, expenses for the funeral service and expenses for purchase of a tombstone.

The compensation referred to in paragraph 2 of the Article hereof shall be determined to the amount of actual expenses incurred, based on the bill for every type of expense, however maximum up to the amount of average prices for every type of expense in the place of the funeral.

The right to compensation of expenses for the purchase of mourning clothing shall have those persons who are entitled to compensation for emotional pain and suffering due to death of a close person.

Article 9

The expenses for aid and attendance are material expenses incurred for those services rendered to the injured person which enable the fulfillment of his/her basic biological needs (feeding, dressing and undressing, personal hygiene, toileting, moving with or without aids), if due to total or partial disability of an organ such person cannot fulfill these needs by himself/herself.

The expenses for aid and attendance shall be compensated to the amount of actual expenses for aid and attendance in accordance with the extent of aid and attendance which must be provided to the injured person, and maximum up to the average earnable income of the health care workers of relevant qualifications who perform such professional activities.

The compensation of expenses for aid and attendance referred to in paragraph 2 of the Article hereof shall be determined as a monthly annuity.

Article 10

Non-material damage shall be compensated independently from the compensation of material damage.

In accordance with the Decree hereof, a non-material damage as a consequence of traffic accident shall include the following:

- 1) physical pain and suffering;
- 2) emotional pain and suffering due to disability;
- 3) fear;
- 4) emotional pain and suffering due to disfigurement;
- 5) emotional pain and suffering due to death of a close person;
- 6) emotional pain and suffering due to a particularly serious disability of a close person.

Article 11

Physical pain and suffering is a subjective feeling experienced by an injured person at the moment of injury and which continues during the medical treatment.

The intensity and duration of the suffered physical pains, future pains, percent of disability as well as the age of the injured person and his/her general health condition, type and character of injuries and possibility to diminish the pain intensity by the relevant therapy and medications are particularly taken into account when determining the amount of compensation for the sustained physical pain and suffering.

For physical pain and suffering of pains of lower intensity in the duration of up to three days the compensation shall not be paid.

The compensation referred to in paragraph 2 of the Article hereof shall be determined according to the following criteria for the sustained physical pain which has occurred:

- 1) as the consequence of particularly serious injuries which have caused the disability of more than 50% - up to EUR 3 000;
- 2) as the consequence of serious bodily injuries which have caused the disability of more than 30%, however not exceeding 50% - up to EUR 2 000;
- 3) as the consequence of serious bodily injuries which have caused the disability of up to 30% - up to EUR 1 500;
- 4) as the consequence of minor bodily injuries and those injuries which have not caused disability, but with prevalent pains of high intensity - up to EUR 1 000;
- 5) as the consequence of minor bodily injuries and those injuries which have not caused disability, but with prevalent pains of medium and low intensity – up to EUR 500.

Article 12

Disability shall include all permanent limitations in daily life activities of the damaged person which such person has performed or would have certainly performed in the normal course of future events.

Permanent limitations referred to in paragraph 1 of the Article hereof shall also mean the performance of daily life activities with increased efforts or under special conditions.

Type and place of injury, percent of disability, age of the damaged person, occupation of the damaged person, limitations in pursuing sports, recreational activities, hobby in relation to the period before sustaining the injury, limitations in relation to the family activities and social activities of the damaged person and the purpose of compensation shall be particularly taken into account when determining the amount of compensation for emotional pain and suffering due to disability.

The percent of disability shall be determined based on the medical documents and/or direct examination of the injured person, taking into account all the circumstances of the case.

The compensation referred to in paragraph 3 of the Article hereof shall be determined according to the disability rating criteria, depending on the age of the injured person, for each 1% of disability, as follows:

- 1) for persons up to 20 years of age – up to EUR 160;
- 2) for persons from 20 to 35 – up to EUR 150;
- 3) for persons from 35 to 55 – up to EUR 140;
- 4) for persons over 55 – up to EUR 130.

If permanent disability of 50% and more has been determined for the damaged person, depending on the circumstances of the case the compensation shall be increased by 20% of the amount of compensation referred to in paragraph 5 of the Article hereof.

Article 13

Fear is the feeling experienced and/or suffered by a person at the moment of injury (primary fear), which is manifested as the fear for life and/or physical integrity, and the subsequent feeling experienced upon the sustained injury which is related to the outcome of recuperation (secondary fear).

The percent of disability shall be taken into account when determining the amount of compensation for the experienced fear.

The amount of compensation for the experienced fear shall be determined according to the intensity and duration of the experienced fear.

When determining the amount of compensation for the experienced fear, particularly taken into account shall be the existence of permanent consequences on the mental balance of the damaged person in the form of mental illness occurred as the consequence of experienced fear, which shall be determined based on the medical documents.

For the experienced fear of a low intensity in the duration of up to three days the compensation shall not be paid.

The compensation for the experienced fear shall be determined according to the following criteria:

- 1) as the consequence of particularly serious injuries which have caused the disability of more than 50% - up to EUR 2 000;
- 2) as the consequence of serious bodily injuries which have caused the disability of more than 30%, however not exceeding 50% - up to EUR 1 500;
- 3) as the consequence of serious bodily injuries which have caused the disability of up to 30% - up to EUR 1 000;
- 4) as the consequence of minor bodily injuries and those injuries which have not caused disability, but with prevalent fear of high intensity - up to EUR 800;
- 5) as the consequence of minor bodily injuries and those injuries which have not caused disability, but with prevalent fear of medium and low intensity – up to EUR 500.

Article 14

Emotional pain and suffering due to disfigurement is expressed in a subjective feeling and/or suffering of the damaged person due to the changes occurred as the consequence of injury and manifested in the figure so altered that it cannot be improved by any medical treatment, altered body posture (distortedness, paralysis of particular body parts, shortness

or loss of particular body parts) which cannot be eliminated and which is visible, changes to the body which are visible on particular occasions (on the beach, when pursuing sports and in other situations in which the damaged person exposes the injured body parts to the eyes of the present persons which provokes their increased interest, shock or pity).

The amount of compensation for emotional pain and suffering due to disfigurement depends on the permanently remaining consequences reflected in the impairment of the original figure and symmetry of the body and/or bodily function and is determined by taking into account the altered figure and symmetry of the body and/or bodily function, age, sex and occupation of the damaged person and the locality of injury and degree of disfigurement.

The compensation for emotional pain and suffering due to disfigurement shall be determined according to the following criteria, for:

- 1) particularly severe disfigurement – up to EUR 3 000;
- 2) severe disfigurement – up to EUR 2 000;
- 3) medium disfigurement – up to EUR 1 000;
- 4) minor disfigurement – up to EUR 500.

Article 15

Emotional pain and suffering due to death of a close person is manifested in the subjective feeling and/or suffering of the injured person due to the loss of a close person.

The right to compensation for emotional pain and suffering due to death of a close person shall have the spouse, children, parents, common-law partner (in the case of a more permanent partnership in accordance with the law regulating family relations) and siblings (in the case of a more permanent life partnership with the deceased).

The amount of compensation referred to in paragraph 2 of the Article hereof shall be determined to the following maximum amounts:

- 1) in case of death of a spouse or common-law partner – EUR 5 000;
- 2) in case of death of a child – EUR 7 000;
- 3) in case of loss of fetus – EUR 2 000;
- 4) in case of death of a parent – to a minor child – EUR 6 000;
- 5) in case of death of a parent – EUR 5 000
- 6) in case of death of a sibling – EUR 3 000.

In case of death of both parents, the maximum amount of the corresponding compensation referred to in paragraph 3 of the Article hereof shall be doubled.

Article 16

Emotional pain and suffering due to particularly serious disability of a close person is manifested in a subjective feeling and/or suffering of the damaged person due to particularly serious disability of a close person.

The right to compensation for emotional pain and suffering due to particularly serious disability of a close person shall have the spouse, children, parents, common-law partner (in case of a more permanent partnership in accordance with the law regulating family relations).

Disability shall be deemed particularly serious if the percent of disability of the damaged person equals or exceeds 70%.

The amount of compensation referred to in paragraph 2 of the Article hereof shall be determined in the following maximum amounts:

- 1) in case of serious disability of a spouse or common-law partner – EUR 3 000;
- 2) in case of serious disability of a child – EUR 4 000;
- 3) in case of serious disability of a parent – to a minor child – EUR 4 000;
- 4) in case of serious disability of a parent – EUR 3 000.

Article 17

The amount of compensations referred to in the Article 11, 12, 13, 14, 15 and 16 of the Decree hereof shall be calculated in RSD equivalent at the mean exchange rate of the National Bank of Serbia as at the date of compensation payment.

Article 18

This Decree shall become effective on the eighth day after the day of its publication in the “Official Gazette of the Republic of Serbia”.

05 No. 110-3532/2010

Belgrade, 13 May 2010

G o v e r n m e n t

President,

Mirko Cvetković, Ph.D. sign.