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## PRACTICE AREAS

Workers Compensation

Personal Injury

Motor Vehicle Accidents

Wrongful Death

# Wrongful Death Compensation Calculations

5-6-2010

Ronald Miller at the Maryland Personal Injury Lawyer blog recently [discussed](#) an interesting Chicago Law Review article, Dollars and Death, 72 U. Chi. L. Rev. 537 (2005). The article is authored by Eric Posner (Judge Richard Posner's son) and Cass Sunstein. In the article, the authors examine ways to make wrongful death compensation more uniform by requiring more standardized calculation methods on a nationwide basis.

The authors suggest that in order to accomplish this goal, wrongful death damages should be calculated using certain assigned amounts for different values and then factor in other considerations, such as how long grief exists following the death. For example, the authors posit that grief arguably ends when the surviving spouse re-marries.

While the ideas expressed in the article are interesting, they are impracticable at best. The authors attempt to take a cookie cutter approach to damages in wrongful death claims, which are both emotionally charged and very fact specific, is simply untenable. As Miller adeptly notes in his blog post:

I understand the goal of uniformity and I even understand the formula. The problem is homogenizing the equation for everyone. Values vary because juries vary but also because facts vary wildly from case to case.

A precise mathematical formula might simplify matters and make wrongful death damages more uniform on a nationwide basis, but would hardly do justice to the surviving spouse. It's nearly impossible to assign a monetary amount to the grief, loss and anguish that is experienced when a loved one dies. This task is best left to the jurors, who are in a position to empathize with the pain caused by the premature loss of a spouse. Mathematical formulas, neat and clean as



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they may be, are simply insufficient.

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