

Compensations Arising from Traffic Accidents Resulted in Death and Injury As Regard To Turkish Law

According to official statistics of Turkey, every year there are 5000 people who lost their lives and more than 100.000 injured people due to the traffic accidents. What's more, it is estimated that 10.000 people die apart from the official statistics. 94% of the traffic accidents stems from the human related situations. In traffic accidents, it has been found that 27% of drivers and only %1 of passengers have mistake in the accidents. 6% of the accidents which are not stemming from human related situations relate to 5% vehicle problems and %1 road problems

Moral and material damages arising from accidents increase year by year. In parallel with increase of vehicles, the traffic accidents also raise in Turkey. Material damage of the traffic accidents which occurred in Turkey last 20 years amount to 2,3 billion dollars.

In general, traffic accidents cause loss of limb and organs but in some situations it may result in death. In these type of cases, claim for damages become an issue in order to compensate material and moral damages for inheritors. In this article, we decided to mention briefly about the claim for material and moral damage in response to the questions.

Who can file a case as a claim for material and moral damage?

In this regard, there are two distinctions. In case that the victim of a traffic accidents stay alive, victim can claim for damages pursuant to articles of 41, 45 and 47 of code of obligation. In case of the death of a victim, people who indirectly effected due the death have right to claim for material and moral damage such as the victim's relatives, mother, father, spouse, children, siblings, fiancé and the persons who are in the care of the victim. If the victim claimed for a damage prior to his/her death, said relatives have right to resume this filed case.

In traffic accident, material and moral damages are claimed against whom?

The damages stemming from the accidents can be demanded depending upon the other side's economic power, mistake level of the other side, lost of the other side, the address shall be the insurance company.

The amount of the compensation stemming from the traffic accident might be high for the defacer. Accordingly, the case filed against an insurance company would be well-directed party. According to article 97 of Highway Law, "A victim can directly demand its compensation from the insurer by the means of a law suit within estimated boundaries of compulsory liability insurance.

The lawsuit must be filed against an insurance company which concluded a motor policy or a car insurance policy with a person causing the traffic accident. In case that those insurance companies are different companies, the lawsuit must be filed against both of them.

What can be done in the absence of traffic insurance of a driver causing damage?

According to article 85 of Highway Traffic Law, compulsory automobile liability insurance (traffic insurance) is required for every vehicles and it interdicted to travel by a vehicle without having this insurance type.

Despite of this fact, there are many vehicles in the street which do not have traffic insurance and involving traffic accidents in practice. For these types of situations, lawmaker has established a trust account in order to compensate the damages caused by a driver who lacks traffic insurance.

What is the term of litigation and prescription for the cases related to traffic accidents?

The compensation case must be file within a year after perpetrator or the damage has become known. If the case filed against an insurance company, the duration is 2 years. In any case, duration of 10 years is the maximum duration for litigation of a compensation case.

If the traffic accident requires a criminal case procedure then prescription shall be prolonged pursuant to Penal Law and longer prescription durations shall become valid.

Is it possible to file a lawsuit for damage by a mistaken driver or passengers?

Passengers certainly have a right to file a case against the driver or the owner of vehicle. On the other hand, generally the people who have a right to file a case are unwilling to do it due to familial or emotional reasons. In this regards, is it possible to file this lawsuit against insurance company? Then, we see two type of insurance policy. These are compulsory automobile liability insurance (traffic insurance) and voluntary liability insurance (car insurance).

Compulsory automobile liability insurance established in order to compensate for the damages caused by insurance owner. Accordingly, except the driver who caused the accident the passengers can file a case against the insurance company. The driver of the vehicle can file this case against insurance company on the condition of having car insurance. In case that passengers and drivers are dead, the inheritors have also right to file this case related to compensation.

How the amount and the scope of material and moral compensation is determined by the courts?

In case that traffic accident resulted in death, inheritors have right to claim for compensation due to being destitute of help and the expenses related to funeral. The compensation can be claimed also for compensating moral damages such as depression and sadness due to the death.

If the injury occurred, bare of the job, duration of unemployment, loss of wage due to injury and treatment costs can be requested. Additionally, moral compensation can also be requested.

If the person become disabled due to accident, he/she can request compensation depending upon severity of the disability and power loss. The proportion of disability is extremely

important for determination of the compensation amount. Besides, damages related to vehicle and other property can be also requested.

The economic condition of the applicant is also very important for the determination of compensation amount. If the damage cannot be proved properly with evidences, the compensation amount will be lower or minimum wage amount will be considered as damage. Considering feature of moral compensation as a intangible concept, provability requires significant evidences related to damages. In this regards, getting assistance from a professional would be the best and satisfactory method.