

TURKISH CODE OF OBLIGATIONS

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A. Liability

I. General

ARTICLE 49- Any party causing damage to another party by any wrongful or illegal act shall be liable for indemnifying against the said damage.

Furthermore, the party causing damage to another party intentionally by any immoral act shall be liable for indemnifying against the said damage, even though there is no legal rule prohibiting any damaging act.

II. Proof of damage and fault

ARTICLE 50- The injured party shall be burdened to prove the damage incurred by it and the fault committed by the injuring party.

If it is impossible to accurately prove the extent of the damage incurred, the judge shall assess the extent of the damage on an equitable basis in consideration of the normal course of incidents and the measures taken by the injured party.

III. Indemnity

1. Assessment

ARTICLE 51- The judge shall assess the scope of indemnity and the method of its payment in consideration of the requirements of circumstances and, in particular, the severity of fault.

If it is ruled for the payment of indemnity as revenue, the debtor shall be obliged to provide a security.

2. Reduction

ARTICLE 52- If the injured party has consented to the act resulting in the damage or has had an effect on the occurrence or escalation of the damage or has aggravated the conditions of the party having the obligation of indemnification, the judge may reduce or cancel the indemnity in whole.

If the party having the obligation of indemnification who causes a damage due to its minor fault becomes insolvent upon paying the indemnity and if required by equity, the judge may reduce the indemnity.

IV. Particular circumstances

1. Death and bodily injury

a. Death

ARTICLE 53- The damages incurred in case of death are particularly given as follows:

1. Funeral expenses
2. If it is not an immediate death, treatment expenses and any losses arising from the reduction or loss of work force
3. Any losses incurred by those who are deprived of the support of the deceased for this reason

b. Bodily injury

ARTICLE 54- Bodily injuries are particularly given as follows:

1. Treatment expenses
2. Loss of profit
3. Any losses arising from the reduction or loss of work force
4. Any losses arising from the shattering of economic future

c. Assessment

ARTICLE 55- Any damages arising from the deprivation of the support, and bodily injuries shall be calculated in accordance with the provisions of this Law and the principles of liability law. Social security payments which are irrevocable in whole or in part and payments effected not for purposes of performance shall not be taken into consideration for the assessment of this kind of damages; the same shall not be deducted from the damage or the indemnity. The indemnity calculated may not be increased or decreased in equity on the basis of amount.

The provisions of this Law shall apply to all kinds of administrative acts and actions and any requisitions and cases regarding those damages associated with the partial or full loss of physical integrity or the death of any person as caused for other reasons for which the administration is liable.

d. Non-pecuniary damage

ARTICLE 56- In the event that the physical integrity of any person is damaged, the judge may rule for the payment of an appropriate sum as a non-pecuniary damage to the injured party in consideration of the characteristics of the incident.

In case of severe bodily injury or death, a resolution may be adopted for the payment of an appropriate sum as a non-pecuniary damage to the kinsmen of the injured or the deceased.