

## ABBOZZ TA' LIĠI msejjah

*ATT biex jemenda l-Kodiċi Ċivili, Kap.16.*

Il-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

**1.** (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2011 li jemenda l-Kodiċi Ċivili u dan l-Att għandu jinqara u jftiehem ħaġa waħda mal-Kodiċi Ċivili, hawn iżjed 'il quddiem imsejjaħ "il-Kodiċi".

Titolu fil-qosor u bidu fis-seħħ.  
Kap.16.

(2) Id-dispożizzjonijiet ta' dan l-Att jidhlu fis-seħħ f'dik id-data li l-Ministru responsabbli għall-gustizzja, jista' b'avviż fil-Gazzetta jstabilixxi u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

**2.** L-artikolu 1045 tal-Kodiċi għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 1045 tal-Kodiċi.

"Kif jitqiesu d-danni.

1045. (1) Id-danni li l-persuna responsabbli għandha twieġeb għalihom, skont id-dispożizzjonijiet ta' qabel għandhom jikkonsistu:

(a) fit-telf effettiv li l-att ikun ġieb direttament lill-vittma;

(b) fl-ispejjeż attwali li l-vittma jew xi waħda mill-persuni msemmija fl-artikolu 1046(3) giet imgiegħla gġarrab bħala konsegwenza tad-danni;

(ċ) fit-telf ta' pagi attwali jew qligħ ieħor;

(d) fit-telf ta' qligh futur li minhabba dizabilita' permanenti, totali jew parzjali, li l-att seta' ikkawza;

(e) fit-telf mhux pekunarju minhabba dizabilita' permanenti, totali jew parzjali, li l-att seta' ikkawza; u

(f) fl-ispejjez futuri li jistgħu jkunu necessarji u ragjonevoli għat-trattament mediku futur, kura jew assistenza u li l-vittma tista' ggarrab bhala konsegwenza diretta tad-dizabilita' permanenti li sofriet.

(2) Is-somma li għandha tingħata għat-telf ta' qligh futur jew telf mhux pekunarju li gēj minn dizabilita' permanenti, sew jekk totali jew jekk parzjali, għandha tiġi maħduma skont ir-regolamenti magħmula taħt l-artikolu 1-1046A.

(3) Is-somma li għandha tingħata għat-telf ta' qligh futur minhabba dizabilita' permanenti, sew jekk totali jew jekk parzjali, m'għandhiex teççedi s-sitt mitt elf euro (€600,000) jew dik is-somma ikbar li l-Ministru tal-Ġustizzja flimkien mal-Ministru tal-Finanzi jista' b'avviż minn żmien għal żmien jistabbilixxi.

(4) Is-somma totali li għandha tingħata għall-kap ta' danni msemmi fis-subartikolu (1)(f) m'għandhiex teççedi s-sitt mitt elf euro (€600,000) jew dik is-somma ikbar li l-Ministru tal-Ġustizzja flimkien mal-Ministru tal-Finanzi jista' b'avviż minn żmien għal żmien jistabbilixxi.

Sostituzzjoni  
tal-artikolu 1046  
tal-Kodiçi.

3. L-artikolu 1046 tal-Kodiçi għandu jiġi sostitwit b'dan li gēj:

"Danni lill-  
werrieta tal-mejjet.

1046. (1) Meta bhala konsegwenza tal-att li jwassal għad-danni tirriżulta l-mewt, il-Qorti għandha tagħti l-ispejjeż attwali u raġjonevoli li gġarrbu, inklużi iżda mhux limitati, għal spejjeż ta' sptar, spejjeż mediċi oħra u spejjeż tal-funeral:

(a) jekk imħallsa mill-mejjet lill-werrieta; u

(b) f'kull każ ieħor, lil dawk il-persuni li attwalment ħallsuhom.

(2) Għall-finijiet ta' dan l-artikolu, l-ebda talba għad-danni bbażata fuq it-telf ta' qligħ futur tal-mejjet m'għandha tkun ammissibli.

(3) Għall-finijiet ta' dan l-artikolu:

(a) dipendenti huwa kull persuna li fiż-żmien tal-mewt tal-mejjet kienet meġġuna u, jew mantnuta mill-mejjet jew kull persuna li bil-ligi hija ntitolata li titlob li tkun meġġuna u, jew mantnuta mill-mejjet;

(b) id-danni pagabbli lil kull dipendenti tal-mejjet għandhom ikunu limitati għall-ammont ta' manteniment li d-dipendenti li kieku kien jirċievi mill-mejjet tul il-perjodu ta' dipendenza li kieku l-mejjet baqa' ħaj, jgġifieri, sakemm id-dipendenti jkun kapaċi jmantni lillu nnifsu u ma jibqgħax jiddependi fuq il-manteniment tal-mejjet:

Iżda meta fiż-żmien tal-mewt, xi persuna msemija f'dan is-subartikolu ma tkunx tirċievi manteniment iżda hemm probabbilità qawwija illi li kieku l-mejjet baqa' ħaj dik il-persuna fil-futur kien ser ikollha bżonn il-manteniment mill-mejjet, minkejja li dik il-persuna ma tkunx qiegħda tirċievi manteniment, tkun meġġuna mill-mejjet, id-danni xorta għandhom jingħataw skont dan l-artikolu.

(4) Qarib viċin tal-mejjet jista' jitlob danni mhux pekunjarji, u d-danni pagabbli lil xi persuna li titlobhom għandhom jiġu ffissati permezz ta' regolamenti magħmula skont l-artikolu 1046A. Qarib viċin tal-mejjet tfisser kull konjuġi, dixxendent, axxendent jew l-aħwa, kemm jekk nisa jew irġiel, tal-mejjet li fiż-żmien tal-mewt tiegħu kienu qiegħdin jgħixu fl-istess dar mal-mejjet".

Żieda ta' artikoli godda mal-Kodiċi.

**4. Minnufih wara l-artikolu 1046 għandhom jiżiedu l-artikoli godda li ġejjin:**

"Setgħa li jagħmel regolamenti.

1046A. Il-Ministru responsabbli għall-ġustizzja jista' jagħmel regolamenti għall-fini tal-artikoli 1045 u 1046 u jista' permezz ta' dawn ir-regolamenti jistabbilixxi r-regoli li għandhom jiġu applikati meta jikkwantifikaw id-danni pagabbli skont l-imsemmija dispożizzjonijiet, inklużi r-regoli li jistabbilixxu l-fatturi li għandhom jiġu kkunsidrati fil-komputazzjoni tad-danni pagabbli u r-regoli li jistabbilixxu l-limitazzjonijiet tar-responsabbiltà rigward id-danni li għandhom jithallsu. Is-setgħa tal-Ministru għandha tinkludi iżda m'għandhiex tkun limitata għas-setgħa li jagħmel ir-regoli sabiex:

(a) jistabbilixxi l-qligħ jew il-qligħ potenzjali li għandu jkun il-bażi li fuqu jiġu kkomputati d-danni għat-telf ta' qligħ futur;

(b) jistabbilixxi l-*formulae* li għandhom jintużaw biex jiġu kkomputati d-danni għat-telf ta' qligħ futur;

(c) jistabbilixxi l-iskala perċentwali ta' diżabbiltà permanenti rigward ħsarat partikolari, kemm jekk fiżiċi u kemm jekk psikoloġiċi, li sofra l-vittma;

(d) jistabbilixxi l-*formula* li għandha tintuża biex jiġu kkomputati d-danni għat-telf mhux pekunjarju f'każ ta' diżabbiltà permanenti;

(e) jistabbilixxi s-somma ta' danni li għandhom jithallsu lill-qraba viċini tal-persuna li tmut għad-danni mhux pekunjarji:

Iżda s-somma li għandha tingħata għat-telf mhux pekunjarju m'għandhiex teċċedi l-mitejn elf euro (€200,000) jew dik is-somma ikbar li l-Ministru tal-ġustizzja flimkien mal-Ministru tal-finanzi jista' b'avviż minn żmien għal żmien jistabbilixxi.

Kapi ta' danni.

1046B. M'għandhomx jingħataw danni lil kull persuna li titlobhom taht kapi ta' danni li mhumiex speċifikament imniżżla fil-Kodiċi."

**A BILL  
entitled**

*AN ACT to amend the Civil Code, Cap. 16.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and  
commencement.  
Cap. 16.

**1.** (1) The short title of this Act is the Civil Code (Amendment) Act, 2011, and this Act shall be read and construed as one with the Civil Code, hereinafter referred to as "the Code".

(2) The provisions of this Act shall come into force on such date as the Minister responsible for justice may, by notice in the Gazette, establish, and different dates may be so established for different provisions and for different purposes of this Act.

Substitution of  
article 1045 of  
the Code.

**2.** Article 1045 of the Code shall be substituted by the following:

"Measure of  
damages.

1045. (1) The damage which is to be made good by the person responsible in accordance with the foregoing provisions shall consist in:

(a) the actual loss which the act shall have directly caused to the injured party;

(b) the actual expenses which the injured party, or any of persons mentioned in article 1046(3) has been forced to incur in consequence of the damage;

(c) the loss of actual wages or other earnings;

(d) the loss of future earnings arising from any permanent disability, total or partial, which the act may have caused; and

(e) the non-pecuniary loss arising from any permanent disability, total or partial, which the act may have caused; and

(f) future expenses which may be necessary and reasonable for future medical treatment, care or assistance and which the injured party will be compelled to incur as a direct consequence of the permanent disability sustained.

(2) The sum to be awarded for loss of future earnings and non-pecuniary loss arising from permanent disability, whether total or partial, shall be assessed in accordance with regulations made under article 1046A.

(3) The sum to be awarded for loss of future earnings arising from permanent disability, whether total or partial, shall not exceed six hundred thousand euro (€600,000) or such higher sum as the Minister for justice with the concurrence of the Minister responsible for finance may by notice from time to time establish.

(4) The total sum to be awarded for the head of damages referred to in subarticle (1)(f) shall not exceed six hundred thousand euro (€600,000) or such higher sum as the Minister for justice with the concurrence of the Minister responsible for finance may by notice from time to time establish."

3. Article 1046 of the Code shall be substituted by the

Substitution of article 1046 of the Code.

following:

"Damages to heirs of deceased party.

1046. (1) Where in consequence of the act giving rise to damages death ensues, the court shall award the expenses actually and reasonably incurred, including, but not limited to, hospital expenses, other medical expenses and funeral expenses:

(a) if paid by the deceased, to the heirs; and

(b) in any other case, to those persons who actually paid them.

(2) For the purposes of this article, no claim for damages based on the loss of future earnings of the deceased shall be admissible.

(3) For the purposes of this article:

(a) a dependant is any person who at the time of the death of the deceased was being supported and, or maintained by the deceased or by any person who is entitled by law to require to be supported and, or maintained by the deceased;

(b) the damages payable to each dependant of the deceased person shall be limited to the amount of maintenance that the dependant would have received from the deceased throughout the period of dependency had the deceased person remained alive, that is to say, until the dependant would be able to maintain himself and no longer be dependent on maintenance from the deceased:



Provided that where at the time of death, any person referred to in this subarticle is not in receipt of maintenance but there is a strong likelihood that had the deceased remained alive such person would in the future require maintenance from the deceased, or where such person, although not in receipt of maintenance, was being supported by the deceased, damages shall be awarded as provided in this article.

(4) A close relative of the deceased may claim non-pecuniary damages, and the damages payable to each claimant shall be fixed by regulations made in accordance with article 1046A. A close relative of the deceased shall mean spouse, descendant, ascendant or a brother or sister of the deceased person who at the time of his death was living in the same household of the deceased person".

4. Immediately after article 1046 of the Code there shall be added the following new articles:

Addition of new articles to the Code.

"Power to make regulations.

1046A. The Minister responsible for justice may make regulations for the purpose of articles 1045 and 1046 and may by such regulations establish the rules to be applied when quantifying the damages payable in accordance with the said provisions, including rules establishing the factors that shall be taken into consideration in computing the damages payable and rules establishing limitations of liability in respect of the damages payable. The power of the Minister shall include but shall not be limited to the power to make rules to:

- (a) establish the earnings or potential earnings that are to be taken as the basis for computing damages for loss of future earnings;
- (b) establish the formulae that are to be used in computing damages for loss of future earnings;

(c) establish a percentage scale of permanent disability in respect of particular injuries, whether physical or psychological, suffered by the injured party;

(d) establish the formula that is to be used in computing damages for non-pecuniary loss in case of permanent disability;

(e) establish the sum of damages payable to the close relatives of the deceased for non-pecuniary damages:

Provided that the sum to be awarded for non-pecuniary damages shall not exceed two hundred thousand euro (€200,000) or such higher sum as the Minister for Justice with the concurrence of the Minister responsible for Finance may by notice from time to time establish.

Heads of damages.

1046B. It shall not be lawful for any claimant to be awarded heads of damages which are not specifically provided for in this Code."