

INTERNATIONAL ASSOCIATION OF JUDGES - 2nd Study Commission -
Meeting in Portugal - November 1982

SUBJECT: The main principles of civil liability for road- accidents.

Q U E S T I O N N A I R E

- 1)- Does your legal system regulate civil liability for road accidents with reference to a fault of the defendant ?
If yes, does your law simply refer to negligence of the concerned person, or to imprudence, unskilfulness, violation of statutes or regulations ?
- 2)- Is negligence determined by the standard of conduct of the ordinary prudent man under similar circumstances (culpa levis) ?
Are there any cases in which even a slight fault can determine civil liability for a road accident (culpa levissima) ?
- 3)- Is the burden of evidence always placed upon the victim of an accident ?
Is civil liability imposed without fault in any case ?
Are there any cases in which a person involved in a road accident must prove to be innocent ?
- 4)- How is civil liability regulated in case of a road collision between:
a) two or more vehicles ?
b) a vehicle and an animal ?
- 5)- What are the consequences of a contributory negligence of the victim in a road accident ?
If a negligent driver is injured in a road accident, is his liability modified or excluded ?
- 6)- Is liability attributed to the vehicle owner for negligence or willful misconduct of the operator ?
How does your legal system regulate the liability of Government agencies arising from the operation of a publicly owned vehicle ?
- 7)- Does your law establish a joint liability of:
a) employers, for damages caused by their servants and employees to third parties, in road accidents occurred during the performance of their job ?
b) parents or guardians, for damages caused by children or mentally ill persons who are in their custody ?
c) teachers, for damages caused by the pupils who are placed under their surveillance ?
- 8)- How does your law regulate liability with respect to the persons transported in a motor vehicle ?
What is the rule with respect to gratuitous guest passengers ?
- 9)- What are the elements of recovery that can be considered in a personal injury action (loss of time and wages, medical expenses, future losses, loss of earning capacity, etc.) ?
Can the victim get compensation from the pain and suffering that has resulted from the injury ?
- 10)- In cases where an injured person dies in a road accident, who is entitled to claim damages ?
- 11)- Does your law establish that mechanically propelled vehicles shall be covered by insurance against the risks of road accidents (injury, death, property damage) ?
If yes, what are the damages covered by such insurance ?
- 12)- Has your Country established a special fund to pay allowances to the victims of road accidents (or their heirs), when the person who caused the damage is unknown or is unable to restore it ?