

INTERNATIONAL ASSOCIATION OF JUDGES - 2nd Study Commission

Meeting in Berlin - August 1988

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

SUBJECT: Remedies for wrong.

- 1.-With reference to your legal system, what is the importance of money compensation for damages in comparison with specific performance ?
- 2.-Does your legal system establish different rules as to compensation for damages, in case of breach of contract and in case of tort ?  
Please quote the rules concerning:
  - a) the chain of causation, the test of proximate cause, the test of directness;
  - b) the test of reasonable foresight of damages;
  - c) the liability of joint tortfeasors;
  - d) the limitation of actions;
  - e) the burden of evidence;
  - f) wilful misconduct, negligence and strict liability.
- 3.- According to your legal system, is it possible to assess damages for breach of contract and for tortious liability in the same case ?
- 4.- What are the consequences of a contributory negligence of the victim of a tort ?
- 5.-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.) ?
- 6.- Can the victim get compensation from the pain and suffering that has resulted from the injury ?
- 7.- How can damages be estimated when the victim is a housewoman without a remunerated job ?
- 8.- Can damages be compensated in case of partial and permanent reduction of working capacity, if there is not an effective reduction of salary ?
- 9.- Shall damage be estimated with reference to <sup>the</sup> moment of <sup>the</sup> accident or to <sup>the</sup> moment of payment ?
- 10.- In assessing damages in claims for personal injury (see above n.5) should tort damages be reduced by taking into account the full amount of social security benefits payable as a result of the injury, thus avoiding double compensation ?
- 11.-What happens if the health of the victim improves or gets worse after the assessment of damages ?  
What are the consequences of money inflation ?  
Can a judgment be revised in the above mentioned two cases ?
- 12.- In cases where an injured person dies after an accident, who is entitled to claim damages ? (an heir ? a relative ? a depending person ? an employer ?)
- 13.- How do you imagine the evolution of tort liability in the future ?  
Should it remain a liability in negligence, with the possibility of helping the victims by charging the wrongdoer with a rebuttable presumption ?  
Do you think that "no fault liability" should be imposed in a growing number of cases (products, things and operations involving exceptional risks), and compulsory insurance should be imposed in cases of strict liability ?  
What do you think of the possibility of introducing a State insurance to cover personal injuries caused by accident, eliminating tort actions for personal injury ?