

Список використаних джерел

1. Anti-Corruption Germany – Global Compliance News. URL: <https://www.globalcompliancenews.com>.
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FEATURES OF MORAL DAMAGES IN AUSTRALIA

The legal system of Australia has multiple forms. It includes a written constitution, unwritten constitutional conventions, statutes, regulations, and the judicially determined common law system. Its legal institutions and traditions are substantially derived from that of the English legal system. [3] Australia is a common-law jurisdiction, its court system having originated in the common law system of English law. The country's common law is enforced uniformly across the states (subject to augmentation by statutes) [4].

The Australian Constitution sets out a federal system of government. There exists a national legislature, with a power to pass laws of overriding force on a number of express topics. [5] The States are separate jurisdictions with their own system of courts and parliaments, and are vested with plenary power. Some Australian territories such as the Northern Territory and the Australian Capital Territory have been granted a regional legislature by the Commonwealth.

Moral damages are a type of extraordinary damage that compensate an employee for mental distress or other intangible injury arising from the employer's breach of its duty of good faith and fair dealing in the manner of dismissal. Moral harm is compensated with cash, other property or by other ways. The size of monetary compensation for moral damage is defined by court decision, which depend on the nature of the offense, the depth of physical and mental suffering, deterioration of the victim skills or his (her) deprivation of feasibility for their use.

Also the size of compensation depends on the degree of guilt of the person which caused the moral damages, if guilt is the basis for reimbursement, as well as on other circumstances which are significant. In determining the amount of reimbursement, court take into account the requirements of reasonableness and fairness [1]. Moral harm is compensated regardless of the property damage, which is refundable, and is not associated with the size of this reimbursement. Moral harm is compensated only once, unless otherwise is stipulated by contract or law. Exemplary damages are allowed only in addition to moral damages such that no exemplary damages can be awarded.

The plaintiff bears the onus of proving that the defendant's conduct caused the losses claimed. At common law, the defendant bears the onus of proving:

- failure to mitigate on the plaintiff's behalf
- contributory negligence.

The onus is on the plaintiff throughout to quantify damages. This does not necessarily require proof of the loss in actual monetary terms. Medical expenses and care costs for the past are rarely disputed and those expected in the future are normally capable of reasonable estimation.

Once a loss is proved, the court is required to do its best to put a value on that loss even if the evidence is less than satisfactory. In the absence of evidence, a plaintiff cannot complain that inadequate damages have been awarded, where the court dealt with the assessment of income loss in the absence of evidence of likely earnings from planned pre- and post-accident careers.

It is standard practice to itemize amounts awarded to a plaintiff under various heads of damage and to give reasons for arriving at each of the stated figures. Care needs to be taken to avoid the possibility that the amounts assessed under the various heads of damage might be duplicated. [3] For instance, a court must balance, in assessing general damages, the effect on a plaintiff of any incapacity to undertake domestic responsibilities for his or her family against making allowance for the provision of voluntary or commercial careers.

The recognized heads of damage (not only moral, but at all) are:

1. **General damages:** this is the term applied to non-pecuniary damages or non-economic loss suffered as a result of pain, disability, loss of enjoyment and amenities of life, disfigurement or loss of expectation of life.

2. **Pecuniary loss:** this term covers out-of-pocket expenses involved in medical and other treatment expenses; aids and appliances, domestic and personal care.

3. **Income loss:** covering actual income loss to the date of trial and loss of income-earning capacity thereafter.

4. **Aggravated damages:** awarded to a plaintiff who suffers increased distress as a result of the manner in which a defendant behaves when committing the wrong or thereafter.

5. **Exemplary damages:** awarded to mark the court's disapproval of the conduct of the defendant and to deter its repetition by the defendant or others.

6. **Nominal or contemptuous damages:** this head of damage is of little relevance to claims in tort involving personal injury where actual damage is a necessary part of the cause of action. It commonly arises in cases of trespass to the person where the options available to the court range between nominal damages and a more substantial award depending on the circumstances. [1]

All in all, Australia is a multicultural society with migrants coming from many different cultural and religious backgrounds. Australians have

many common values and principles that unite them. They live by the same laws. All Australians have the right to express their culture and beliefs. At the same time everyone is expected to uphold the principles and shared values and freedoms that support Australia's way of life.

These shared values include

- freedom of speech
- freedom of association
- freedom of assembly
- freedom of religion
- freedom of movement
- respect for the freedom and dignity of the individual
- commitment to the rule of law
- parliamentary democracy
- equality of opportunity for all individuals, regardless of gender, country of origin, religion or ethnic
- background
- acceptance of cultural diversity
- a spirit of equality that embraces mutual respect, fair play and compassion for those in need [2].

Talking about moral damages we can conclude that in Australian law is a lot of paragraphs and documents that look at this problem and say how to deal with it. Many lawyers are making scientific researches. As you can see, damages are qualified into different groups, this part of law institution in Australia is very structured. There is also punishment for the moral damages, it can be compensated in different ways. So, I can say that people in Australia are protected really good in the sphere of moral damages.

Список використаних джерел

1. Official source of the Australian Law Reform Commission URL: <https://www.alrc.gov.au/publication/serious-invasions-of-privacy-in-the-digital-era-alrc-report-123/12-remedies-and-costs/damages/>.
2. Australian Cultural Orientation Program by Australian government URL: <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/english-ausco-australian-law.pdf>.
3. Patrick Parkinson, Tradition and Change in Australian Law (Sydney: LBC Information Services, 2001) at 6.
4. Lange v Australian Broadcasting Corporation («Political Free Speech case») [1997] HCA 25 at p. 563, (1997) 189 CLR 520 (8 July 1997).
5. Australian Constitution (Cth) s 51 Legislative powers of the Parliament.