



If you have questions or would like further information regarding Personal Injury, please contact:

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## ILLINOIS LAW MANUAL

### CHAPTER XIV DAMAGES

#### A. PERSONAL INJURY

Where an individual is injured by the act or omission of another person, the claimant is entitled to “compensation” or “recovery” for all damages (both present and future) necessarily resulting from that act or omission. Harris v. Peters, 274 Ill. App. 3d 206 (1995). The basic theory and purpose behind tort compensation (damages) is that a claimant should be put in the same position that he or she would have been in, if not for the defendant’s negligence. Roberts v. Norfolk & W. Ry., 229 Ill. App. 3d 706 (1992).

The amount of recovery for the various elements and damages is left, largely, to the discretion of the jury. The calculation is based upon the evidence submitted and takes into account the nature, extent, and duration of the injury. Illinois law recognizes various elements of damages which, where proven, are recoverable in addition to the claimant’s out-of-pocket expenses. Doe v. Montessori School of Lake Forest, 287 Ill. App. 3d 289 (1997).

The Illinois Pattern Jury Instructions provide the basis for assessment of damages and what damages are recoverable in Illinois. Instruction 30.01 provides that:

If you decide for the plaintiff on the question of liability, you must then fix the amount of damages which will reasonably and fairly compensate him for any of [the elements] of damages proved by the evidence to have resulted from the [negligence/wrongful conduct] [of the defendant/insured], taking into consideration the nature, extent, and duration of the injury.

I.P.I. 30.01 (2000) [Emphasis added].

## **1. Analysis**

The above instruction provides that there must first be a finding in favor of the claimant on the issue of liability. Then, one must look to the evidence to determine what damages have been proven. Among the damages available to an injured claimant are:

- Emotional Distress/Mental Anguish
- Aggravation of a Pre-existing Ailment/Condition
- Disability
- Disfigurement
- Pain and Suffering
- Medical Expenses
- Loss of Earnings or Profits
- Caretaking Expenses

[Also available, under certain circumstances, to persons other than the directly injured claimant, are loss of society and companionship and loss of consortium, which are discussed in Sections B and C of this chapter.]

A new term for disability, “loss of normal life,” was introduced in 1994 (See Section B of this chapter).

Verdicts rendered by a jury are required to be itemized pursuant to 735 ILCS 5/2-1109. This section of the statute applies only to jury verdicts, and not arbitration awards or a finding by a judge. Marchese v. Vincelette, 261 Ill. App. 3d 520 (1994). The line items a jury considers are discussed in Section B of this chapter.