

Article - Courts and Judicial Proceedings

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§3-2A-09.

(a) This section applies to an award under § 3-2A-05 of this subtitle or a verdict under § 3-2A-06 of this subtitle for a cause of action arising on or after January 1, 2005.

(b) (1) (i) Except as provided in paragraph (2)(ii) of this subsection, an award or verdict under this subtitle for noneconomic damages for a cause of action arising between January 1, 2005, and December 31, 2008, inclusive, may not exceed \$650,000.

(ii) The limitation on noneconomic damages provided under subparagraph (i) of this paragraph shall increase by \$15,000 on January 1 of each year beginning January 1, 2009. The increased amount shall apply to causes of action arising between January 1 and December 31 of that year, inclusive.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the limitation under paragraph (1) of this subsection shall apply in the aggregate to all claims for personal injury and wrongful death arising from the same medical injury, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants.

(ii) If there is a wrongful death action in which there are two or more claimants or beneficiaries, whether or not there is a personal injury action arising from the same medical injury, the total amount awarded for noneconomic damages for all actions may not exceed 125% of the limitation established under paragraph (1) of this subsection, regardless of the number of claims, claimants, plaintiffs, beneficiaries, or defendants.

(c) (1) In a jury trial, the jury may not be informed of the limitation under subsection (b) of this section.

(2) If the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b) of this section, the court shall reduce the amount to conform to the limitation.

(3) In a wrongful death action in which there are two or more claimants or beneficiaries, if the jury awards an amount for noneconomic damages that exceeds the limitation under subsection (b) of this section or a reduction under paragraph (4) of this subsection, the court shall:

(i) If the amount of noneconomic damages for the primary claimants, as described under § 3-904(d) of this title, equals or exceeds the limitation under subsection (b) of this section or a reduction under paragraph (4) of this subsection:

1. Reduce each individual award of a primary claimant

proportionately to the total award of all primary claimants so that the total award to all claimants or beneficiaries conforms to the limitation or reduction; and

2. Reduce each award, if any, to a secondary claimant as described under § 3-904(e) of this title to zero dollars; or

(ii) If the amount of noneconomic damages for the primary claimants does not exceed the limitation under subsection (b) of this section or a reduction under paragraph (4) of this subsection or if there is no award to a primary claimant:

1. Enter an award to each primary claimant, if any, as directed by the verdict; and

2. Reduce each individual award of a secondary claimant proportionately to the total award of all of the secondary claimants so that the total award to all claimants or beneficiaries conforms to the limitation or reduction.

(4) In a case in which there is a personal injury action and a wrongful death action, if the total amount awarded by the jury for noneconomic damages for both actions exceeds the limitation under subsection (b) of this section, the court shall reduce the award in each action proportionately so that the total award for noneconomic damages for both actions conforms to the limitation.

(d) (1) A verdict for past medical expenses shall be limited to:

(i) The total amount of past medical expenses paid by or on behalf of the plaintiff; and

(ii) The total amount of past medical expenses incurred but not paid by or on behalf of the plaintiff for which the plaintiff or another person on behalf of the plaintiff is obligated to pay.

(2) (i) A court may on its own motion, or on motion of a party, employ a neutral expert witness to testify on the issue of a plaintiff's future medical expenses or future loss of earnings.

(ii) Unless otherwise agreed to by the parties, the costs of a neutral expert witness shall be divided equally among the parties.

(iii) Nothing contained in this subsection limits the authority of a court concerning a court's witness.

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