

Czech Republic

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Facts of the Case

- The plaintiff was seeking compensation for damages resulting from a work-related injury leading to serious harm to his back and resulting in the long-term loss of his ability to work
- Major differences in the amount of damages granted by the courts

Judgement

- Reduction in damages without thoroughly and clearly explained reasons.
- The mere reasoning that the amount of compensation granted must have certain limits and a rational relationship to the level of the basic point assessment is insufficient.
- The amount awarded by the Regional Court in Prague is disproportionately low.

Legal Regulation until 2014

- Decree No. 440/2001 Coll., on compensation for pain and aggravation of social position (abolished on January 1, 2014) was applied, which set a point scale (one point was only EUR 4) to determine the amount of compensation for damage caused by pain and aggravation of social position.
- However, possibility of the court to increase the compensation in cases which merit special consideration

Legal Regulation

- Section 2958 of the New Civil Code: *"in case of harm to health, the wrongdoer shall compensate such harm by means of a monetary amount that fully compensates the pain suffered and other immaterial loss. If the amount of compensation cannot be determined in this way, it shall be determined in accordance with the principles of equity."*

Legal Regulation

- The Supreme Court elaborated a methodology that systematically determines the impact of the non-material harm on personality rights based on a ratio between pain suffered and aggravation of social position for the purpose of the court's decision-making.
- Act No. 276/2015 Coll. introduced the point assessment system both for pain suffered and aggravation of social position in work related cases.

Judgement

- Criticisms of the CC: in connection with the adoption of the Civil Code, there was a general conceptual change in the legal regulation, leaving the assessment of the compensation solely to a court, which should not be limited by any regulation, methodology or the like.

Judgement

- The adoption of the Labour Law regulation neglects the principle of the New Civil Code that the decision-making activity of the courts must be freed from the power of the executive, which is not entitled to restrict the courts when deciding on the compensation.
- We may expect abolishment in future.

Judgement

- CC to Methodology: in terms of protection of constitutionality any limited scoring, such as according to the Supreme Court's methodology, can be problematic, because compensation for damage to health cannot be determined based on the application of point scales, but only based on the circumstances of the particular case, as evidenced in the proceedings.

Commentary

- The rejection of the point scale system, regardless of whether the old or the new one, is disputable and contrary to European trends and the principle that similar injuries should be compensated in similar way.