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TOPIC : QUANTUM OF DAMAGES IN ACCIDENT CASES

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INTRODUCTION

For this purpose of this Project Paper, an award of damages under Common Law is to be considered as the sum of money payable as compensation for personal injury and fatal injury arising from accident cases.

In 1925¹ Atkin L.J.:

"The law as to damages still awaits a scientific statement ...(it is) a branch of the law on which one is less guided by authority laying down definite principles than almost any other matter that one can consider."

Damages are compensation in money awarded to the injured party in accident claims. When one person causes harm of any kind to another person whether it is personal injury, damage to property or financial loss the normal remedy which the law gives (if in the circumstances of the case it give right of action at all) is a right to recover damages. Damages are simply a sum of money given as compensation for loss of harm of any kind. The law on the nature of damages has been stated from time to time in somewhat varying terms by statement judges for example by Discount Denedin in Admiralty Comrs v SS Valeria² said:

"The true method of expression, I think is that in calculating damages you are to consider what is the pecuniary consideration which will make good to suffer, as far as money can do so, the loss which he has suffered as the natural result of the wrong done to him."

In *Livingstone v Rawyards Coal Co.*³ Lord Blackburn then said:

"Where any injury is to be compensated by damages, in setting the sum of money to be given ... you should as nearly as possible get at that sum of money which will put the person who has been injured ... in the same position as he would have been if he had not sustained the wrong."

In all the above statements courts are of the opinion that damage should be compensated as accurate as possible to the party who suffers injury as a result of the negligence of a wrongdoer.

According to a Malaysian case decided by Privy Council⁴ considerations may be had in mind when assessing damages in accident cases in Malaysia:-

- (1) The law as to factors which must be weighed and taken into account in assessing damages is in general as the law in England.
- (2) The principles governing the approach of an appellate court that is invited to hold that damages should be increased or reduced are the same as those of law in England.
- (3) The extent to which regard should be had to the range of awards in other cases which are comparable to such cases which are comparable to such cases should as a rule be those which have been determined the same jurisdiction or in a neighbouring locality where similar social economic and industrial conditions exist.