

ON REVISING THE AMOUNT OF STATUTORY BEREAVEMENT AWARDS IN SINGAPORE

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This comment reviews the amount of damages for bereavement under the Civil Law Act 1909 in Singapore. It is argued that the current award is inappropriately low and needs to be increased. The statutory amount of bereavement damages should be reviewed periodically, taking inflation and changing economic conditions into consideration.

I. INTRODUCTION

Courts allow bereavement damages to be awarded in cases involving fatal accidents. The Civil Law Act 1909¹ specifies classes of relatives of the deceased with the right to claim bereavement damages in the order of their priority. The award is intended to compensate for grief caused by the loss of a loved one. It should be noted that there is an obvious loss of life that substantiates the claim for bereavement damages; therefore, it is unnecessary to provide proof of loss.

On 4 March 1987, Parliament passed an amendment to the *CLA* to allow claims for statutory bereavement damages.² Section 12A(4) of the Amendment Act set the statutory amount at S\$10,000³. Section 21(6) of the *CLA* provides that the Minister may, by order published in the *Gazette*, vary this sum. The amount increased to S\$15,000 in March 2009⁴ but has remained unchanged ever since.

II. STATUTORY AMOUNT OF BEREAVEMENT DAMAGES IN OTHER JURISDICTIONS

The argument to be made in this comment is that the failure of the Singapore Legislature to index statutory bereavement damages since that time is to be regretted. Action should be taken to this end. This need for action becomes all the more

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¹ Civil Law Act 1909 (2020 Rev Ed) [*CLA*].

² Civil Law (Amendment) Act 1987 (Act 11 of 1987).

³ *Ibid* at s 4.

⁴ Civil Law (Amendment) Act 2009 (Act 7 of 2009), s 4.

apparent when one compares the development of equivalent damages awards in other common law jurisdictions – as we now proceed to do.

A. *United Kingdom*

The United Kingdom (UK) is composed of three legal jurisdictions: (1) England and Wales, (2) Northern Ireland, and (3) Scotland.

In England and Wales, when a person was wrongfully killed, the law did not recognise any claim for their close relatives’ bereavement until 1982. The Administration of Justice Act 1982 created a bereavement claim by adding Section 1A to the Fatal Accidents Act 1976, which set a fixed sum of £3,500 as the amount of compensation⁵. Since the enactment of the Act, the level of the award has been adjusted several times as follows:

Year	Amount
1982	£ 3,500
1991	£ 7,500
2002	£10,000
2008	£11,800
2013	£12,980
2020	£15,120

Bereavement damages are a type of non-pecuniary loss that can never be calculated with mathematical precision. When the bereavement award was first fixed at £3,500, the UK’s government did not explain the rationale for the set amount. Five revisions have been made to that amount since 1982. In 1991, the award was increased from £3,500 to £7,500, representing an increase of 114%; in contrast, the Retail Prices Index (RPI) only increased 64% during the same period.⁶ Subsequent revisions roughly caught up with price inflation.

The current award, which is £15,120, has been in force since May 2020.⁷ Both the amount and frequency of its revision have received criticism from lawyers, claimants, and the public. For example, the Association of Personal Injury Lawyers (APIL) commissioned YouGov to carry out a poll on the public’s attitude towards bereavement damages.⁸ The results revealed that 69% of British adults thought that £15,120 was too little compensation for losing a loved one. The APIL also criticised the UK government for failing to keep its commitment to revising the statutory

⁵ Administration of Justice Act 1982 (UK), s 3.
⁶ From 1982 to 1991, the UK Retail Prices Index (RPI) rose 64% (from 320.4 to 526.7). The UK RPI data are available at <https://www.ons.gov.uk/economy/inflationandpriceindices/timeseries/cdko/mm23>.
⁷ The Damages for Bereavement (Variation of Sum) (England and Wales) Ord 2020.
⁸ (United Kingdom) Association of Personal Injury Lawyers (APIL), *Report on Bereavement Damages: A Dis-United Kingdom* (April 2021). Available at <https://www.apil.org.uk/files/online-files/473-207505/Bereavement-Damages-A-Dis-United-Kingdom.pdf>.

bereavement award in England and Wales every three years in line with the RPI (rounded to the nearest £100).⁹

In Northern Ireland, section 3A of the Fatal Accidents (Northern Ireland) Order 1977 applies. Since the enactment of the Order, the level of the award has been adjusted several times as follows:

Year	Amount
1982	£ 3,500
1991	£ 7,500
2002	£10,000
2008	£11,800
2016	£14,200
2019	£15,100
2022	£17,200

This scheme is almost identical to that in England and Wales, but Northern Ireland's policy for revising the sum has recently changed. In 2016, the Department of Justice of Northern Ireland increased the statutory amount to £14,200 to catch up with inflation. Since then, an adjustment has been made to the sum every three years using the UK Consumer Price Index (CPI). The latest revision was announced in November 2022, when the amount increased to £17,200.¹⁰

In Scotland, the compensation payable to relatives for the loss of a loved one as the result of the fault and negligence of another is governed by the Damages (Scotland) Act 2011, s.4. The award is the Scottish equivalent of the England and Wales bereavement award. It is assessed on a case-by-case basis, and a more substantial award can be made to a wider range of eligible claimants who can show that they had a close relationship with the deceased.

B. Alberta, Canada

Section 8(2) of the Alberta Fatal Accidents Act¹¹ provides that certain surviving family members (such as a spouse or adult interdependent partner, parent or parents, and children) of a deceased killed by a wrongdoer have the right to claim compensation for their grief and loss of guidance, care, and companionship. Section 8(2) was enacted in January 1979. The amounts of statutory bereavement damages are specified in subsections (a), (b) and (c).

The amount of Alberta's bereavement damage awards since 1979 and corresponding price inflation data are summarised in the following table. All of the monetary figures are in Canadian dollars.

⁹ *Ibid*, at 13.

¹⁰ The Damages for Bereavement (Variation of Sum) Order (Northern Ireland) 2022.

¹¹ Fatal Accidents Act, RSA 2000, c F-8 (Can), s 8(2).

Date	Relationship to the deceased person ¹²				Inflation ¹³	
	Spouse/ Parent	Increase (%)	Child	Increase (%)	CPI ¹⁴	Increase (%)
Jan-1979	3,000		3,000		38.1	
Sep-1994	40,000	1233%	25,000	733%	85.9	125%
Feb-2000	43,000	8%	27,000	8%	94.1	10%
Nov-2002	75,000	74%	45,000	67%	101.5	8%
Jun-2007	75,000	0%	45,000	0%	111.9	10%
May-2013	82,000	9%	49,000	9%	123.0	10%
Jun-2017	82,000	0%	49,000	0%	130.4	6%
Apr-2021	82,000	0%	49,000	0%	140.3	8%

The initial amount of damages for bereavement was set at \$3,000 in 1979. After approximately 15 years, the amount was reviewed by the Alberta Law Reform Institute (ALRI), which recommended a significant increase.¹⁵ In September 1994, the award was increased to \$40,000 for each surviving spouse or parent and \$25,000 for each surviving child. The change represented a 1,233% increase for the award to each surviving spouse/parent and 733% for the award to each surviving child, whereas Canada’s CPI rose only 125% over the same period. This shows that the ALRI considered other social and economic factors beyond inflation in making its 1994 recommendation.

Section 9(1) of the Alberta Fatal Accidents Act states that “The Executive Council shall review the levels of damages set out in section 8(2) once in every 5 years from September 1, 1994, to determine the adequacy of those levels.” The first review was performed by the ALRI in 1999, and the amounts of \$43,000 for each surviving spouse/parent and \$27,000 for each surviving child were recommended to roughly catch up with inflation. The recommendations were enacted in February 2000.¹⁶

In conjunction with an amendment to the Alberta Survival of Action Act,¹⁷ in 2002, the damages amounts were dramatically increased to \$75,000 for each surviving spouse/parent and \$45,000 for each surviving child. These 74% and 67% increases, respectively, were significantly more than the 8% inflation recorded over the same period. The next five-year review was performed by the Alberta Justice and Solicitor General (AJSG) in 2007, and no change was proposed.¹⁸ In May 2012, a Discussion

¹² Ibid, see s 8(2) for the definitions of spouse, parent, and child.
¹³ Inflation is defined as the percentage increase of the Canadian CPI over a given period.
¹⁴ The CPI data can be found at the Bank of Canada’s website (CANSIM Series v41690973) <https://www.bankofcanada.ca/rates/price-indexes/cpi/>.
¹⁵ (Canada) Alberta Law Reform Institute (ALRI), *Report on Non-Pecuniary Damages in Wrongful Death Actions – A Review of Section 8 of the Fatal Accidents Act* (June 1992) at 133. Available at <https://www.alri.ualberta.ca/wp-content/uploads/2020/06/rfd12.pdf>.
¹⁶ (Canada) Alberta Justice and Solicitor General (AJSG), *Review of damages under Section 8 of the Fatal Accidents Act* (September 2021) at 8–9. Available at <https://open.alberta.ca/publications/review-levels-damages-under-section-8-fatal-accidents-act#summary>.
¹⁷ Survival of Actions Act, RSA 2000, c S-27 (Can), s 2(a).
¹⁸ The review was conducted in a similar manner to the ALRI’s past reviews.

Paper was issued to collect stakeholders' comments and suggestions for reviewing the damages levels. The amounts of \$82,000 for each surviving spouse/parent and \$49,000 for each surviving child were recommended to roughly catch up with inflation over the period. The recommendations were implemented in May 2013.

Both the 2017 and 2022 reviews by the AJSG found that Alberta had the highest bereavement damages in Canada, and no adjustments were recommended. As a result, the current award levels remain at \$82,000 for each surviving spouse/parent and \$49,000 for each surviving child.

C. Hong Kong

In Hong Kong, an action under the Fatal Accidents Ordinance¹⁹ may include a claim for bereavement damages in the amount prescribed in Section 4(3). The Ordinance was enacted in 1986, when the statutory amount was set at HK\$40,000. Since then, the bereavement sum was adjusted in 1991, 1997, 2018, and 2020. The amounts of Hong Kong bereavement damage awards and the corresponding price inflation data are summarised in the following table. All of the monetary figures are in Hong Kong dollars.

Date	Bereavement Sum	Increase (%)	CPI(A) ²⁰	Increase (%)
Jan-1986	40,000		38.1	
May-1991	70,000	75%	85.9	50%
Jul-1997	150,000	114%	94.1	58%
Jun-2018	220,000	47%	101.5	34%
Jun-2020	231,000	5%	111.9	5%

In February 1985, the Law Reform Commission of Hong Kong proposed to establish damages for bereavement, clearly stating that fixing the damages (\$40,000) was an “arbitrary decision”.²¹ In 1991, the sum was raised by 75%, from \$40,000 to \$70,000, a much greater increase than the inflation adjustment over the period from 1985 to 1991. In April 1997, a member of the Hong Kong Legislative Council argued that the bereavement sum was widely divorced from the cost of living in Hong Kong, and the amount should be varied over time to keep up with “changing social and economic conditions”, possibly beyond the rate of inflation. He moved to increase the bereavement sum from \$70,000 to \$150,000. After a brief debate, the motion was passed.²²

¹⁹ Hong Kong Ordinances (Cap 22, Legislation 260 of 1986), available online at <https://www.elegislation.gov.hk/hk/cap22>.

²⁰ The CPI(A) data can be found at the Hong Kong Census and Statistics Department's website https://www.censtatd.gov.hk/en/web_table.html?id=52#.

²¹ Law Reform Commission of Hong Kong, *Report on Damages for Personal Injury and Death* (February 1985) at [8.23].

²² See the *Hong Kong Legislative Council Minutes* (No. 26 of 1996-97), available online at https://www.legco.gov.hk/yr96-97/english/lc_sitg/minutes/min1604.htm.

There were two reviews of the bereavement amount in 2000 and 2014, and no adjustments were made. In May 2018, Hong Kong’s government proposed increasing the bereavement sum from HK\$150,000 to HK\$220,000. This 47% increase was more than sufficient to cover the estimated cumulative inflation (34%, see the calculations in the above table) from 1997 to 2018. It was also suggested that the amount should be reviewed every two years for possible adjustments for inflation and other factors. In the biennial review of 2020, the sum was adjusted from HK\$220,000 to HK\$231,000 to account for inflation. The government did not perform the 2022 biennial review, possibly due to the COVID-19 pandemic. The current sum stands at HK\$231,000.

III. THE NEED FOR A REVIEW OF THE CURRENT LEVEL
OF AWARD IN SINGAPORE

The following table compares the current bereavement sums among the selected jurisdictions discussed in the previous section.

Jurisdiction	Bereavement Sum		
	Last Revision Date	Amount in Local Currency	Amount in Singapore Dollars ²³
Singapore	Mar-2009	S\$15,000	\$15,000
England and Wales	May-2020	£15,120	\$24,550
Northern Ireland	Dec-2022	£17,200	\$27,950
Alberta, Canada	Apr-2021	C\$82,000	\$80,400
Hong Kong	Jun-2020	HK\$231,000	\$38,750

Inflation plays an important role in modern tort compensation.²⁴ In the early 1970s, a combination of price increases and wage stagnation led to a period of economic doldrums around the world. This event stirred up the longstanding concern about safeguarding awards for tort victims against the erosion of purchasing power. Most courts now agree that the effects of inflation should be recognised when computing compensation for pecuniary damages.

To discuss the appropriate level of awards for compensation for bereavement loss and other emotional harm,²⁵ we believe that it is necessary to consider the analogous question of how to assess damages for non-pecuniary loss, such as pain, suffering and loss of amenities (PSLA), in personal injury cases. Like the bereavement tariff, the award of PSLA damages is a monetary remedy; however, non-pecuniary losses

²³ Exchange rate data from the Monetary Authority of Singapore as of 31 January 2023, <https://eservices.mas.gov.sg/Statistics/msb/ExchangeRates.aspx>.
²⁴ Fleming, ‘*The Impact of Inflation on Tort Compensation*’ (1978) 26 Am J Comp L 51.
²⁵ Descheemaeker, ‘*Rationalising Recovery for Emotional Harm in Tort Law*’ (2018) 134 Law Q Rev 602 at 625 (Part IV).

are “not susceptible of measurement in money”.²⁶ By definition, their value cannot be determined by “the market”.

As observed by Lord Scarman in *Lim Poh Choo v Camden & Islington Area Health Authority*,²⁷

An award for pain, suffering and loss of amenities [PSLA] is conventional in the sense that there is no pecuniary guideline which can point the way to a correct assessment. It is, therefore, dependent only in the most general way upon the movement in money values. Like awards for loss of expectation of life, there will be a tendency in times of inflation for awards to increase, if only to prevent the conventional becoming the contemptible... As long, therefore, as the sum awarded is a substantial sum in the context of current money values, the requirement of the law is met.

In English law, PSLA awards must always be adjusted for inflation²⁸ to keep the amounts in line with “current money values”. In Singapore, an uplift may be applied to the PLSA awards if the case precedent is “outdated” compared to “changes in purchasing power” since the date of the decision.²⁹ In Hong Kong, inflationary rates for PLSA awards are updated periodically.³⁰

We studied and compared the bereavement sums and PLSA awards in selected common law jurisdictions. All of them are adjusted for inflation periodically to preserve their “real” economic value. There is no reason for the bereavement sum in Singapore to be an exception. In fact, the previous uplift (from \$10,000 to \$15,000) in Singapore between 1987 and 2009 matches inflation over the same period.³¹ However, we are living in a period of dynamic change. Canada, the UK and Hong Kong have all recently reviewed the statutory bereavement awards. Singapore should consider conducting a similar review as soon as feasible. In light of the CPI (All Items) published by the Singapore Department of Statistics, Singapore’s cumulative inflation from March 2009 to December 2022 was 31.2%.³²

The next question to be analysed in this comment is whether the bereavement sum in Singapore has become manifestly inadequate (“contemptible”³³) after the uplift for inflation. The 1997 uplift in Hong Kong accounted for “social and economic”

²⁶ *West v Shephard* [1964] AC 326 at 346.

²⁷ [1980] AC 174 at 183 [*Lim Poh Choo*].

²⁸ This is necessary, not discretionary: *Wright v British Railways Board* [1983] 2 AC 773 at 782C–D. Also see the recent case of *Witham v Steve Hill Limited* [2020] EWHC 299.

²⁹ *Quek Yen Fei Kenneth (by his litigation representative Pang Choy Chun) v Yeo Chye Huat and another appeal* [2017] 2 SLR 229 at [41].

³⁰ See Wai-sum Chan, Felix Chan & Johnny Li, *Personal Injury Tables Hong Kong*, 2019 ed (Hong Kong: Sweet & Maxwell) at 65.

³¹ The Singapore CPI was 58.4 in 1987 and 85.0 in 2009. This represents a rise of 45.55% in the index. Based on the inflation in this period, the adjusted amount should be $10,000 \times 1.4555 = \$14,550$. After rounding to the nearest 500, that amount matches the statutory sum (\$15,000) in 2009.

³² Consumer Price Index data from Singapore Department of Statistics as of 31 January 2023, <https://tablebuilder.singstat.gov.sg/table/TS/M212881>.

³³ *Lim Poh Choo*, *supra* note 25.

factors,³⁴ and the amount was increased substantially beyond the price inflation effect. Similarly, the 1991 uplift in the UK and the 1994 and 2002 uplifts in Alberta were far above the inflation of their corresponding periods and jurisdictions.³⁵

It should be noted that Singapore’s economic growth has attained the level of a gross domestic product (GDP) per capita of US\$72,794 in 2021, which is much higher than that of the UK (US\$44,510), Hong Kong (US\$49,800), and Canada (US\$51,987).³⁶ From 1987 to 2021, Singapore’s GDP per capita grew by 866%.

However, the current question is really about the social valuation of bereavement. Due to possible ideological differences among jurisdictions, the amount need not be internationally standardised or linked to the economic development of the territory.

To get a better sense of the adequacy of the baseline quantification of the bereavement sum in Singapore, we examine and compare the award amounts for worker’s compensation (death) in Singapore. Under the *Work Injury Compensation Act 2019*, where death results from a work injury in Singapore, compensation must be paid in a lump sum.³⁷ The lump sum is computed as the product of a multiplicand and a multiplier. The multiplicand is the average monthly earnings (AME) of the deceased employee, and the multiplier is given in section 1(1) of the First Schedule of the Act. Furthermore, the lump sum award must be bounded.³⁸ The historical data on revisions to prevailing bounds may shed light on the social valuation of wrongful deaths in Singapore.

The limits on the Singapore worker’s compensation (death) amount³⁹ and the corresponding price/wage inflation data are summarised in the following table. All of the monetary figures are in Singapore dollars.

Year	Limits of the WICA (death) Compensation Amount				Singapore Price/Wage Inflation Data			
	Lower	Change (%)	Upper	Change (%)	CPI	Change (%)	AME	Change (%)
1987	15,000		45,000		58.4			
1990	37,000	146.7%	111,000	146.7%	62.7	7%		
2004	49,000	32.4%	147,000	32.4%	76.5	22%	3,329	
2008	47,000	-4.1%	140,000	-4.8%	84.5	10%	3,977	19.5%
2012	57,000	21.3%	170,000	21.4%	96.2	14%	4,433	11.5%
2014	73,000	28.1%	218,000	28.2%	99.5	3%	4,727	6.6%
2016	69,000	-5.5%	204,000	-6.4%	98.4	-1%	5,074	7.3%
2020	76,000	10.1%	225,000	10.3%	99.8	1%	5,629	10.9%

³⁴ However, no specific economic and social factors or variables were mentioned in the discussion. See *supra* note 20.

³⁵ See the analysis in Section II of this comment.

³⁶ Data from the World Bank: <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD>.

³⁷ Work Injury Compensation Act 2019 (2020 Rev Ed), First Schedule [WICA].

³⁸ The bound is specified by a lower limit amount and an upper limit amount in section 1(2) of the *First Schedule* in WICA.

³⁹ The data for the limits before 2019 are obtained from the Workmen’s Compensation Act (Cap 354, 1998 Rev Ed).

It is found that the adjustments in the limits were not purely based on the price/wage inflation effect. The significant uplifts in 1990 and 2004 may have been due to the strong economic growth in Singapore during the corresponding periods. In contrast, the deep downward adjustments in 2008 (during the global financial crisis) and 2016 (during a period of deflation in Singapore) imply that Singapore lawmakers may have considered some “social and economic” factors in their determination of the limits.

IV. CONCLUSION AND RECOMMENDATIONS

This comment reviews the amount of damages for bereavement under the Civil Law Act in Singapore. We studied and compared the bereavement sums in selected common law jurisdictions. Inflation has eroded the recipients’ purchasing power by more than 30% in Singapore since the amount was last revised in 2009. The epochal rise in the standard of living, net of price inflation that occurred from 1987 to 2000, with continuing benefits after the new millennium, represents the fruits of Singapore’s great social and economic success in recent decades. The current bereavement sum in Singapore (S\$15,000) is inappropriately low, and the need for conducting a review is pressing.

Arguably, the level of the bereavement award in Singapore is essentially a matter for society as a whole to determine rather than a matter of law for the judiciary. We recommend that the Ministry of Law set up an expert panel, which should include, in addition to members of the legal profession, an economist, an actuary, a representative of insurers, a representative of labour/trade union organisations, and some lay representation. The panel should have a duty to recommend to the Minister the level of bereavement sum that it considers fair but not excessive. A biennial inflation adjustment review is recommended to keep the amount in line with purchasing power. A major review touching upon a possible change in the social valuation of wrongful death in Singapore should only be undertaken every six to eight years. It is contemplated that a major review of this nature would entail a public consultation process involving a wide range of stakeholders.