

MORAL DAMAGES: SHOULD THE VICTIM'S FINANCIAL CIRCUMSTANCES BE CONSIDERED WHEN DETERMINING COMPENSATION?

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Executive Summary:

- The Plenary of the Supreme Court of Justice of Mexico (the "SCJN") issued Jurisprudence P./J. 122/2026 (12th), digital registration No. 2032225 (the "Jurisprudence"), holding that, when calculating compensation for the non-pecuniary consequences of moral damages, the victim's financial circumstances must not be taken into consideration, as doing so would violate the principle of equality set forth in Article 1 of the Political Constitution of the United Mexican States.

- The victim's financial circumstances may only be considered when determining compensation for the pecuniary consequences arising from moral damages.

On June 5, 2026, the following Jurisprudence was published in the Federal Judicial Weekly (Semanario Judicial de la Federación): "MORAL DAMAGES. THE VICTIM'S FINANCIAL CIRCUMSTANCES MUST NOT BE CONSIDERED WHEN CALCULATING THEIR NON-PECUNIARY CONSEQUENCES" arising from Direct Amparo Review 5225/2025.

Although this criterion may appear to be a technical clarification, it has a direct impact on how moral damages claims are brought, defended, and quantified in Mexico. The following are its most relevant aspects:

I. Background

An individual sustained injuries in a motor vehicle accident. Accordingly, the individual filed an ordinary civil lawsuit against the insurer of the vehicle responsible for the accident, seeking full reparation of the damages suffered, including moral damages.

At first instance, the judge ruled in favor of the insurer. The victim appealed, and the Chamber reversed that decision. It ordered the insurer, among other things, to pay compensation for moral damages, determining the amount based on the pain and distress suffered by the victim.

The insurer filed a direct amparo proceeding, which was granted by the Collegiate Circuit Court. The Court held that the income the victim had ceased to earn should have been taken into account when calculating moral damages. The victim filed a review appeal, arguing that this approach was discriminatory, as it would effectively require the victim to engage in the same occupation throughout their entire life and limit their income to that level, without any opportunity for growth, development, entrepreneurship, personal advancement, or the pursuit of a life plan that could eventually lead to higher earnings.

II. Article 1916 of the Civil Code for the Federal District

Article 1916 of the Civil Code for the Federal District, applicable in Mexico City, provides that the amount of compensation for moral damages shall be determined by the court, taking into consideration the rights infringed, the degree of liability, the financial circumstances of both the liable party and the victim, as well as the other circumstances of the case.

A literal interpretation of this provision could lead to two individuals who suffer the same harm receiving different compensation solely based on their income.

III. Pecuniary and Non-Pecuniary Consequences of Moral Damages

The Plenary of the SCJN relied on the ruling issued by the former First Chamber of the Supreme Court of Justice of Mexico in Direct Amparo 30/2013, which explained that moral damages may give rise to two types of consequences: i)strictly moral or non-pecuniary consequences, for which compensation seeks to mitigate the harm suffered by the victim to their emotional well-being, feelings, or psychological integrity, taking into account the nature and intensity of such harm; and ii) pecuniary consequences, for which compensation seeks to redress present or future economic losses arising from the damage.

IV. The SCJN's Ruling

Based on the foregoing, the Plenary of the SCJN held that Article 1916 is constitutional and consistent with the right to full reparation of damages, provided that it is interpreted to mean that the victim's financial circumstances may only be considered when calculating compensation for the pecuniary consequences of moral damages.

compensation for the non-pecuniary consequences of moral damages violates the principles of equality and non-discrimination recognized under Article 1 of the Political Constitution of the United Mexican States.

This is because a person's financial circumstances do not determine the intensity of the pain or suffering they experience. Holding otherwise would mean accepting that a person with greater financial resources suffers more than someone with fewer resources, or that the latter deserves greater compensation merely because they have fewer resources, which the SCJN considered irrational.

V. Conclusions

The Jurisprudence requires a clear distinction between the non-pecuniary and pecuniary components of moral damages. For claimants, compensation for suffering may not be reduced based on their income, although economic losses must be established separately. For defendants, the discussion regarding the amount of compensation shifts toward the intensity of the harm suffered and the evidence supporting the pecuniary consequences, without the victim's financial circumstances being considered when calculating compensation for the non-pecuniary consequences.

In this context, it will be important to assess the scope and practical impact of this criterion on the evidentiary strategy in moral damages disputes. For reference, we are sharing the links to the Jurisprudence: https://sjf2.scjn.gob.mx/detalle/tesis/2032225, and the judgment from which it arose: https://sjf2.scjn.gob.mx/detalle/ejecutoria/34040.

Our team remains available to discuss the aforementioned Jurisprudence and its potential implications for ongoing or future disputes.

Patricio Gutiérrez
Associate
patricio.gutierrez@s-s.mx