

One Country, Two Systems and Three Disciplines: Interdisciplinary Research of Law, Economics and Actuarial Mathematics in Assessment of Tort Damages

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ABSTRACT

Although the common law system in the United Kingdom and Hong Kong is remarkably different from the civil law system in the PRC, the two legal systems share a similar ideological basis concerning assessment of damages in tort. When an innocent party is injured in a tort-based system of law as the result of the negligence of another party, the innocent party should be awarded adequate compensation. The innocent party should receive proper damages to recompense him/her for the wrong suffered, so that he/she may live as fulfilling a life as possible after injury.

How this ideological belief is put in practice sparks off both similarities and dissimilarities. In both legal systems, multipliers have played an indispensable role in the determination of damages in personal injury litigation. The objective is to calculate a lump sum amount to compensate the victim for future loss of earnings and to cover future expenses. The multiplier is used to discount the future pecuniary values into a present-day lump sum amount.

For many years, the multiplier figures were difficult to determine on any scientific basis due to insufficient interdisciplinary research in law, economics and actuarial mathematics. Analyzing the relevant data from UK, HK and PRC, and systematically presenting the comparative analysis, the authors of this paper argue that the multipliers adopted in most cases are unduly suppressed, leading to under-compensation of the victims. Proposals for reform are put forward for consideration by judges and legislators in all three jurisdictions.

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