



20 JAN 20 P3:53

SENATE

S. B. No. 1276

RECEIVED BY: 

Introduced by Senator FRANKLIN M. DRILON


**AN ACT ADJUSTING THE MINIMUM AMOUNT FOR DEATH INDEMNITY,
MORAL AND EXEMPLARY DAMAGES UNDER REPUBLIC ACT NO. 386 OR
THE CIVIL CODE OF THE PHILIPPINES**

EXPLANATORY NOTE

Our penal laws are designed to provide retribution against the offender, protection to the public, and restitution to the victim. Restitution has the objective of placing the offended party in the same condition as he was before the offense was committed against him. No restitution can however be made when life is taken. Life once lost cannot be restored. There can be no sufficient reparation or indemnification for something of immeasurable value. Nonetheless, Article 100 of the Revised Penal Code provides that a person criminally liable for a felony is also civilly liable. The Civil Code provides compensation for the wrongful death of a person whether caused by crime or quasi-delict.

It must however be noted that even before the enactment of the Civil Code in 1949, Commonwealth Act No. 284 dating as far back as 1938, already states that "civil liability for the death of a person shall be fixed by the competent court at a reasonable sum, upon consideration of the pecuniary situation of the party liable and other circumstances, but it shall in no case be less than two thousand pesos". The Civil Code similarly sets a minimum. In both pieces of legislation, the intent of enabling the courts to increase the amount as warranted by circumstances, is clear.

Article 2206 of the Code which was enacted in the year 1949, sets the minimum amount at Three Thousand Pesos (P3,000.00). Through time, this amount has been increased in jurisprudence to P6,000.00, P9,000.00, P12,000.00 and in 1990, to P50,000.00 or P75,000.00 when the crime is punishable by death penalty.



The amount remained stagnant at P50,000.00 until the year 2013 when the Court, in *People v. Gambao* (G.R. No. 172707, 1 October 2013), raised the minimum amount to the current rate of P100,000.00. Such amount is awarded as a matter of course for wrongful death, without need for proof other than the fact of death resulting from crime or quasi-delict and the fact that the accused was responsible for such death.

Meanwhile, Article 2216 of the Civil Code does not provide a minimum amount for moral and exemplary damages and leaves it entirely to the discretion of the courts. Jurisprudence similarly pegs the amount at P100,000.00.

Moral damages are awarded to compensate for manifold injuries such as physical suffering, mental anguish, serious anxiety, besmirched reputation, wounded feelings and social humiliation. The Supreme Court has held that although incapable of exactness, no proof of pecuniary loss is necessary in order that moral damages may be awarded. The award of moral damages is aimed at a restoration, within the limits possible, of the spiritual *status quo ante*; and therefore, it must be proportionate to the suffering inflicted.

Finally, Article 2229 of the Civil Code states that "exemplary or corrective damages are imposed by way of example or correction for the public good," where circumstances of the case show the highly reprehensible conduct of the offender. Exemplary damages are imposed as vindication for undue sufferings and punishment for outrageous conduct.

While it is clear from the wording of the law and the decisions rendered by the Supreme Court that the amount provided is only the minimum, it has become common practice for our courts to award death indemnity as well as moral and exemplary damages only within the minimum amount. It has been lamented that the gruesome nature of deaths subject of recently decided cases would have warranted a higher award but that courts have been hesitant to depart from the amounts fixed by jurisprudence. To address this, we are introducing amendments clarifying that the amounts provided in the law are only the minimum and that the courts are empowered to use their discretion in granting a higher amount, based on the rate of inflation and circumstances unique to the case. Without saying that human life or human suffering has an equivalent price or cost, the minimum amount is also raised



to P300,000.00 for death indemnity, and P200,000.00 for moral and exemplary damages .

The words of the Court in *People vs. Oandasan* (G.R. No. 194605, 14 June 2016) adequately sum up the rationale for the measure we are proposing: "the value of human life is incalculable, for no loss of life from crime or quasi-delict can ever be justly measured. Yet, the law absolutely requires every injury, especially loss of life, to be compensated in the form of damages.... Although money has been accepted as the most frequently used means of punishing, deterring, compensating and regulating injury throughout the legal system, money in the context of damages is not awarded as a replacement for other money, but as substitute for that which is generally more important than money; *it is the best thing that a court can do*. Regardless, the civil indemnity for death, being compensatory in nature, must attune to contemporaneous economic realities; otherwise, the desire to justly indemnify would be thwarted or rendered meaningless. This has been the legislative justification for pegging the minimum, but not the maximum, of the indemnity."

In view of the foregoing, the urgent approval of this bill is earnestly sought.



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*Be it enacted by the Senate and House of Representatives of the Philippines
in Congress assembled:*

1 **Section 1.** Article 2206 of Republic Act No. 386, otherwise known as the
2 "Civil Code of the Philippines" is hereby amended to read as follows:

3 ART. 2206. The amount of damages for death caused by a
4 crime or quasi-delict **SHALL BE AT LEAST THREE HUNDRED**
5 **THOUSAND PESOS**, even though there may have been
6 mitigating circumstances. **THE COURT, IN ITS DISCRETION,**
7 **MAY AWARD A HIGHER AMOUNT, BASED ON THE RATE**
8 **OF INFLATION AND THE CIRCUMSTANCES OF EACH**
9 **CASE.** In addition:

10 (1) The defendant shall be liable for the loss of the
11 earning capacity of the deceased, and the indemnity
12 shall be paid to the heirs of the latter; such indemnity
13 shall in every case be assessed and awarded by the
14 court, unless the deceased on account of permanent
15 physical disability not caused by the defendant, had
16 no earning capacity at the time of his death;

17 (2) If the deceased was obliged to give support
18 according to the provisions of Article 291, the
19 recipient who is not an heir called to the decedent's

1 inheritance by the law of testate or intestate
2 succession, may demand support from the person
3 causing the death, for a period not exceeding five
4 years, the exact duration to be fixed by the court;

5 (3) The spouse, legitimate and illegitimate
6 descendants and ascendants of the deceased may
7 demand moral damages for mental anguish by reason
8 of the death of the deceased.

9 **Section 2.** Article 2216 of the same Act is hereby amended to read as
10 follows:

11 Art. 2216. No proof of pecuniary loss is necessary in order that
12 moral, nominal, temperate, liquidated or exemplary damages,
13 may be adjudicated. The assessment of such damages, except
14 liquidated ones, is left to the discretion of the court, according
15 to the circumstances of each case: **PROVIDED, THAT THE**
16 **AMOUNT OF MORAL AND EXEMPLARY DAMAGES SHALL**
17 **BE AT LEAST TWO HUNDRED THOUSAND PESOS IN**
18 **CASES OF DEATH RESULTING FROM A CRIME OR**
19 **QUASI-DELICT. THE COURT, IN ITS DISCRETION, MAY**
20 **AWARD A HIGHER AMOUNT BASED ON PREVAILING**
21 **CIRCUMSTANCES AND THE RATE OF INFLATION.**

22 **Section 3. *Separability Clause.*** – Should any provision of this Act be
23 declared invalid, the remaining provisions shall continue to be valid and subsisting.

24 **Section 4. *Repealing Clause.*** – All laws, executive orders, administrative
25 orders, rules and regulations or parts thereof, which are inconsistent with this Act
26 are hereby amended, repealed or modified accordingly.

27 **Section 5. *Effectivity.*** – This Act shall take effect after fifteen (15) days
28 following its publication in the Official Gazette and one (1) newspaper of general
29 circulation.

Approved,

