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EMPLOYERS LIABILITY IN CASE OF WORK INJURES AND OCCUPATIONAL DISEASES WITH SPECIAL EMHASIS ON COMPENSATION OF PECUNIARY DAMAGES

Summary: *Technological and industrial development has partly increased the social standard and the progress of mankind, and in the second place it created a danger to the health and life of people both in the workplace and in the environment. Since each individual needs business engagement for work, therefore, work injuries and occupational diseases are one of the most current occurrences of today. In accordance with the laws and other regulations governing this legal area, it is aimed at achieving the highest possible level of psychophysical and health protection of the employee in the work process. In accordance with the above, the organization itself, the conditions and the means of work should be adapted to the needs of the employee, and motivate them to actively perform the tasks assigned to them. What is specific about this phenomenon is that, for the most part, the rights of the employee, due to work-related or occupational illness, depend on the evidence presented, as well as the medical expertise in each specific case, and taking into account the tasks and tasks that the employee performs past the post he was assigned to. Therefore, the aforementioned is an important issue that arises when deciding the court, in order to determine the contribution of an employee, or a shared responsibility. This paper will consider some of the most important issues related to the compensation of the employee's pecuniary damage due to injury at work and occupational illness, the responsibility of the employer, highlighting the taken positions and opinion in the court practice.*

Key words: *injury at work, occupational disease, material damage compensation, employer, responsibility*

JEL classification: *K15*

INTRODUCTION

Over the past few years, we are witness an enormous growing number of data and studies that point to the fact that work injury or occupational illness is due to the modern work environment and occupational stress that employees encounter during working hours.
The "struggle" of employees until the realization of their legal rights was not an easy one if the employee and the employer, due to mutual "misunderstanding", institute proceedings before the court. The employee is to prove that the injury or occupational illness is due to the impact of the work process, and on the employer, if he considers that he is not responsible, it proves it. The valid list of occupational diseases in Serbia contains 56 occupational diseases and is closed type (Babic and Arandjelovic and Andjelkovic 2016, 613). Although the same is stated in the Rules on the Establishment of Occupational Diseases (Rules on determining occupational diseases („Official Gazette of the RS ", number 105/03)) (which is more about

work), the Republic of Serbia is not even near the top of the countries with the longest list. Thus, for example, in Austria, the list of occupational diseases has 52 diseases, in Italy 58, in Germany 67, in England 70 and in France as much as (Babic and Arandjelovic and Andjelkovic 2016, 648). The problem arises in the recognition of occupational illnesses, and therefore the right to compensation for damage to an employed person. As stated by dr.med., Spec.med.rada and sport K. Zahariev Vukašinic, dr. med. Denis Lisica Mandek and spec. Dr. A. Bogadi-Share, Ph.D., "The algorithm for determining occupational illnesses is in the indisputable proof of the cause-and-effect relationship between exposure to the existing occupational harmfulness and the disease that the employee suffered." Therefore, in order to obtain compensation, the employee is to prove that the injury he suffered or the occupational illness he has suffered.

This is evidenced by the documentation on jobs and workplace where there is an exposure of occupational harmfulness whose activity leads to the occurrence of the disease, namely its intensity and duration, issued by the work organization in which the sick person is employed and the clinical picture of the disease with specific impairments of certain organ and organic systems to which this harmfulness works (medical documentation) (Nedić 2006, 9). Only the diagnosis of a occupational illness is a very serious and complicated job that involves occupational knowledge of occupational pathology and appropriate legal regulations and is carried out by a specialist in occupational medicine (IBID).

Knowledge, continuous monitoring and implementation of laws and accompanying regulations in the field of health care, health insurance, labor relations, occupational safety, pension and disability insurance, traffic safety, protection against ionizing and non-ionizing radiation, introduction of new technologies, laws in the field of internal affairs, armies and all other areas that are in touch with the health protection of workers and occupational medicine - it is the duty of all employees in it, and especially the doctors of the specialist medicine (IBID). Also, it is desirable to monitor international conventions that regulate the protection of workers at work, which do not fully oblige us, because the International Labor Organization (hereinafter: the ILO) and the European Union have left the opportunity for each country to, in keeping with a certain minimum, incorporate its specificities , given its own development.

Most countries in the world are implementing recommendations of the ILO and the International Convention on Benefits (Compensation) in relation to occupational diseases and injuries at work (IBID).

According to the Constitution (Trajković 2015; Mirković 2015; Kostić 2017; Baer 2017),, international treaties that have been prepared and approved in accordance with the Constitution and published, constitute part of the internal order (Savić-Božić 2016, 324), a legal force are above the law (Savić-Božić 2016, 297).

1. THE CONCEPT OF INJURIES AT WORK AND OCCUPATIONAL ILLNESS

Injury at work is a violation of an insured that occurs in a spatial, temporal and causal relationship with the performance of the work on the basis of which it is secured, caused by immediate and short-term mechanical, physical or chemical action, sudden changes in body position, sudden body burden or other changes in the physiological the state of the organism (Law on Pension and Disability Insurance of the Republic of Serbia („Official Gazette of RS ", no. 34 / 2003.64 / 2004 - making USRS.84 / 2004.85 / 2005, 101/2005, 63/2006 - decision USRS 5 / 2009.107 / 2009.101 / 2010.93 / 2012.62 / 2013.108 / 201375/2014 and 142/2014), Article 22 paragraph 1.),as well as the injury suffered by the employees in the performance of the job it is assigned to, in the interests of the employer in whose employment he is employed (IBID, paragraph 2), and the injury he sustains on a regular journey from his apartment to the place of work or vice versa, on the road taken for the performance of his official duties and on the road undertaken for the purpose of entering into service (IBID, paragraph 3) or a violation

suffered in connection with the use of the right to healthcare on grounds of injury at work and occupational diseases (IBID, paragraph 4).

In principle, the work injury is characterized by the connection of this violation with the activities that the insured performs (to which the employee is deployed) and on the basis of which it is ensured (causation, spatial and temporal coalescence) and the manner of occurrence of the violation (direct and short-term effect of some force on the insurer's organization - mechanical, physical or chemical effect, sudden change in position or sudden body burden).

Therefore, all other injuries that would be suffered by an employee, that is, insured, and not foreseen by law, are not considered as a violation at work, therefore they are not the basis for compensation for both intangible and pecuniary damages.

Pursuant to Article 17 of the Law on Pension and Disability Insurance, persons who realize the right on the basis of an injury at work, besides the employee (self-employed persons and farmers) are persons who perform temporary and occasional jobs through youth cooperatives up to the age of 26 life, if they are on education, persons who are in vocational training, additional qualification and re-qualification, sent by the employment organization, students and students when they are in compulsory production, occupational practice or practical training, and persons performing certain tasks based on contract on volunteer law.

According to the Law on Pension and Disability Insurance, occupational diseases are certain illnesses occurring during insurance, caused by a prolonged impact of the process and conditions of work at the workplace, or the affairs of the insured person.

Occupational disease is characterized by disorders that have caused the employee's disease as a result of the long-term, immediate impact of the physical, chemical and biological agents to which it has been exposed and provided that it is included in the list of occupational diseases. In fact, the employee who has suffered from occupational illness at work has almost the same position as the employee who suffered the injury at work, therefore the responsibility of the employer for occupational illness of the employee is under the same conditions under which the employer is responsible for the injury at work.

From the grounds of the Judgment of the Court of Appeal in Belgrade (Gž. 2630/2012 (29) of 15.01.2014.years): "A occupational illness equals the consequences of an injury at work or is harmed at work, which is why the respondent as an employer is obliged to compensate the claimant in the amount of the difference between the pension he receives and the salary he would receive in order to remain in the occupational military the service that has ceased to be due to the limited capacity for military service, which is a consequence of a occupational illness, and if that was not the case, he could still continue to work to fulfill the conditions for retirement or fulfill the years of service."

In order to treat a disease in a legal sense as a occupational illness, it is necessary to have a cause-and-effect relationship between the work that the employee is required to perform, as well as the tasks and the occurrence of the disease, it is necessary that the disease can be classified as one of the diseases referred to by the Rules on the Establishment of Occupational Diseases (Rules on determining occupational diseases (,, Official Gazette of RS "105/03).

Pursuant to the positive law of Serbia, occupational diseases are certain diseases (established on the basis of medical and legal documentation) arising during insurance, caused by a prolonged impact of the work process at the workplace, or the work that the insured person has performed.

Thus, for occupational illness it is characteristic that it occurs as a result of a longer direct adverse impact of the work process and working conditions, in relation to work in certain jobs or jobs, that this disease is stipulated by the Rulebook on determining occupational diseases, and that the insured fulfills other conditions under which a certain disease is recognized as a occupational (positive working amnesia, clinical picture with the occurrence of general damage to the organism or life of important organs, positive laboratory findings, renegade findings, etc.) (IBID).

The Ordinance on the Establishment of Occupational Diseases, in the provision of Article 2, states which occupational illnesses are treated as such, which jobs, or jobs on which they occur, and the conditions under which occupational illnesses arise. By the said Regulations, occupational diseases are divided into diseases caused by chemical action, which includes diseases caused by metal and metalloids (eg poisoning with lead and its compound that can arise on jobs and workplaces where there is exposure to lead or its compound, proves by call-by-poisoning with specific blood damage, damage to the bloodstream or peripheral nervous system or central nervous system or kidney), by gas (eg, carbon monoxide poisoning at jobs and workplaces where carbon monoxide exposure exists, and is proven by a clinical picture of poisoning with specific impairments two of the following organ systems: the central nervous system, blood vessels, blood and blood-forming organs), solvents (eg carbon disulfide poisoning at jobs and workplaces where exposure to carbon disulfate is proven by a clinical picture of poisoning with specific impairments of two of FIG organs or organic systems: organ of vision, central nervous system and peripheral nervous system or three of the other organs or organic systems), and pesticides (poisoning with pesticides not covered by other points of the said Rulebook, in jobs and workplaces where there is a pesticide explosion and proven by a clinical picture of poisoning with specific damage to the two organs or organ systems), then diseases caused by physical activity (for example, noise-induced diseases in workplaces and jobs that come into contact with noise over the permitted level, and it is necessary to maintain the duration and intensity of exposure and damage in the form of both perceptual hearing damage exceeding 30% by Fowler-Sabine - is a table at which calculates or determines the degree of hearing impairment), diseases caused by biological factors (eg viral hepatitis that stops on jobs and places where parenteral contact with the cause of the disease has been established and proves to be a clinical picture of hepatitis - evidence of parenteral infection with the biological agent and time and spacious disease related diseases), lung disease (e.g. pneumoconiosis caused by hard metal in the production and processing of hard metals and is proven by a clinical finding with x-ray diffraction of the lungs on the lungs of profusion 1/1 and a disorder of pulmonary ventilation of at least a limb or a higher degree of profusion of radiographic changes), skin diseases (eg contact dermatitis at work and workplaces where workers are exposed to allergogens or irritating methrials and are proven by a clinical picture of severe chronic or recurrent contact dermatitis with positive specific immunological and other tests) and malignant disease (eg malignant diseases in jobs and workplaces where contact with carcinogens substances and is proven to be a clinical picture of a malignant disease caused by ionizing radiation or ultraviolet rays or chemical carcinogens from the IARC list of safely proven cancer.

In the above examples, as well as in those that form part of the Regulations, it is important to prove the intensity and duration of the exposure.

In the sense of Article 4 of the Law on Occupational Safety and Health („Official. Gazette of RS", No.101 / 2005.91 / 2015 and 113/2017), an employer is considered a domestic and foreign legal entity, that is, a natural person that employs or employs one or more persons.

The Law on Safety and Health at Work (Official Gazette of RS ", no. 101 / 2005.91 / 2015 and 113/2017) stipulates the obligation of the employer to ensure that his employees are in danger of health specified in this Act, which are related to employment and occupational engagement with the employer as a legal entity that the employee engages in.

2. THE RESPONSIBILITY OF THE EMPLOYER TO COMPENSATE FOR THE OCCUPATIONAL ILLNESS OF AN EMPLOYEE

Due to work injuries or occupational diseases, the worker may suffer material and non-material damage. Thus, damage is manifested in two basic forms, as material (reduction of one's property - ordinary damage and prevention of its magnification - evasion benefit) and as

intangible (inflicting another physical or psychological pain or fear) of damage (Zivkovic 1970). Each of these forms is expressed in several ways.

The liability of the employer for compensation of an employee due to injury at work and occupational diseases depends on the basis and the conditions of liability, ie the basis of responsibility is the employer's fault for harmful activity or failure to act, the risk of dangerous things that the employer has or the risk of performing a dangerous activity by which the employer deals (Decree of the Supreme Court of Cassation, Rev.2.1285 / 10 of 19.05.2011.years).

Compensation for damage caused by occupational illness or injury at work or in connection with work is exercised according to Article 154, paragraph 2 of the Law on Obligations (Official Gazette of SFRY ", No.29 / 78,39 / 85,45 / 89 - making USJ and 57/89), which provides for conditions of objective responsibility, which is confirmed by the Supreme Court of Cassation judgment (Judgment of the Supreme Court of Serbia, Rev 76 / 98 of 02.11.1998. years), as explained: Namely, Article 154 of the Law on Obligations stipulates that for a walk from things or activities, which provokes an increased risk of environmental damage, it is responsible regardless of guilt. The owner of the dangerous item is responsible for the damage from the dangerous thing, and the person who deals with it is responsible for the damage from the hazardous activity (Article 174 of the Law on Obligations). In the particular case, the respondent performed the activity for which he fulfilled the conditions, and in addition, the employee experienced occupational illness. Therefore, the defendant is liable for damages on the basis of objective liability, and could be relieved if he proves that the illness of the prosecutor was caused by the employee's fault, by the third person's guilt or by force majeure. The Prosecutor has not proved that the disease had occurred in one of the three aforementioned ways. The unlawfulness of a hazardous activity as a condition for compensation for damage arising from the performance of that activity arises from the general principle of the Law on Obligations, as expressed in Article 16, by which everyone is obliged to refrain from actions that may cause damage to others. Accordingly, the respondent has consciously and with a certain interest undertaken the performance of an activity, for which he normally meets all the prescribed conditions, and he does so at his own risk. It is therefore justified that his interest be linked to the obligation to compensate for the damage his dangerous activity has caused. Based on the established facts, the court found that the defendant is obligated to compensate the claimant for damage caused by occupational illness, vibration caused by the direct influence of the process and conditions of work performed by the prosecutor, according to the rules of objective responsibility, in the sense of Art. 173 and 174 of the Law on Obligations."

In practice, the employer's, or rather, the respondent's allegations are almost usual, if a dispute arises, that the employee, by entering into work or accepting business tasks at a workplace where there is an increased risk of occupational illness, waives the right to compensation. Such an allegation is unfounded.

In support of this, we can, based on an insight into court practice, state the following position of the Supreme Court of Serbia (Rev.1360 / 01 of 06.06.2001.):

"It is baseless to state that the audit related to the circumstance that the prosecutor knew during the course of his employment what conditions he would work and what could happen to him, that is, in fact, he waived his right to compensation, because the mere fact that he agreed to perform the work in a workplace where there is an increased risk of an occupational disease, does not mean that he has agreed to take part in the risk of occurrence of an occupational disease, and even less so that in the course of employment in such a workplace he waived the right to compensation."[1]

Provision of Article 82 of the Labor Law („Official Gazette of RS ", no. 24 / 2005.61 / 2005.54 / 2009.32 / 2013.75 / 2014.13 / 2017 - making US and 113/2017) stipulates that in

cases where there is an increased risk of injuries, occupational and other diseases, only employees who, in addition to the special conditions determined by the rules, can fulfill the conditions for work in terms of health status, psycho-physical abilities and age life in accordance with the law.

Therefore, since an employer or a person employed on the same or some other legal basis is engaged, when recruiting a job candidate for whom there is an increased risk of injury or a occupational illness, they should take into account the above provision of the article and only candidates who fulfill legal requirements engage in employment, that is, establish a working relationship with those persons. In this way, the risk of injuries or occupational illness of the employed person is reduced, with the employer's obligation to provide the necessary working conditions adapted to the performance of such a job, although the employed person fulfilled the conditions that are more rigorous in relation to another job where there is no such risk, or exists, but to a lesser extent. In this regard, more precisely, the employee may have agreed to the risk of injury or to occupationally suffer from the performance of tasks and tasks of which there is an increased risk of a occupational illness, and consequently certain consequences that may affect the psychological, physical condition of the employed person , including an indemnity with which he may have to live his entire life, but with the said "landing" does not derive rights from health, pension and disability insurance, and in particular not tacitly the right to compensation. Therefore, the employee may have risked taking the consequences that may cause a occupational illness or injury and which may affect his physical or psychological integrity, but in no way can the representation of an employee be waived for the legal rights to which he belongs.

The particular situation is if the employee suffers a workplace or work related to the work of the company in which the employee is employed and the third person as the owner of the dangerous thing, which is the direct cause of the damage to the detrimental effect, that is, the injury to the employee during the performance of the tasks and tasks to which he is assigned , which is confirmed by the Judgment of the Supreme Court of Serbia (Rev. 1190/96 from from 20.03.1996. , the Bulletin of the jurisprudence of the Supreme Court of Serbia, 4/96), on the grounds: "The proceedings have determined that the prosecutor is in employment with the first-communal utility company. In performing the duties for collecting drinks, the Prosecutor dated July 21, 1993. The injured persons in the courts correctly concluded that the defendants were jointly and severally liable for the damage caused by the physical injury of the plaintiff, and according to the principle of objective liability, Articles 173 and 184 of the Law on Obligations. The ground of an audit of the first-time company is unfounded that it is not responsible for the damage caused by the impact of the horse owned by the victim. The prosecutor was injured as a worker of the first-innocent company while he was collecting drinks on a ferry. These activities from the activities of the respondent company are carried out in conditions of a large crowd of people and the presence of a large number of caravans and livestock. These conditions increase the risk of injuries to workers. Since the plaintiff's violation occurred in these conditions, she is in a causal relationship with the prosecutor's work with the respondent company, and she is also responsible for the resulting damage for that violation, in the sense of articles 173 and 174 of the Law on Obligations. It is unfounded the allegation of the second-instance auditor's opinion that the responsible public utility undertaking dealing with the provision of beverage services is solely responsible for the damage caused by the breach of the claimant. Responsibility for damage to the company performing communal or similar activities is provided for by the rule from Article 184 of the Law on Obligations, if the damage was due to the suspension or irregular performance of that activity. The owner of the horse, whose hit is injured by the prosecutor, is second-rate and he is responsible for the damage incurred, in the sense of articles 173 and 174 of the said law. This responsibility of the defendant can not be excluded either through the application of rule 184 of the Law on Obligations, with an appeal to the communal activity dealing with the first defendant because there are no conditions or conditions for this in this provision in the Article

177 of the same law, as the direct cause of the damage the blow of a horse whose owner is secondhand."

Hence, the company that performs communal or other similar activities, as well as the owner of dangerous goods, agrees solidly, on the basis of objective responsibility. Namely, it is for the court to determine the immediate and adequate cause of the damage (mechanical, physical or chemical effect, etc.), but not to neglect the liability of a person under Article 173, 174 and 184 of the Law on Obligations, already mentioned.

Furthermore, a company or an employer who employs a person who has been injured or injured at work or in connection with work will be liable to compensate for the damage sustained by him only if the disease is not caused by reasons that do not form the basis of the liability of the enterprise for the damage incurred. Namely, in the course of the procedure, the origin of the illness or injury of the worker must be established so that the same person would be entitled to compensation for damages. If during the course of the procedure it is established that the origin of the disease is exclusively at work and in connection with work, that prosecutor (employee) should determine the exact amount in the claim, in order for the judgment, if the court has reached the benefit of the defendant, to be similar to the execution.

If the damage is caused by the operation of several conditions, then the condition that is typical for the occurrence of the damage is caused (Ivošević, Zoran. 1996 *New court practice in labor disputes - 740 Supreme Court of Serbia*. Beograd: „ Timit"). It is up to the court to clarify all the circumstances and facts on which the responsibility of the employer depends, which primarily relates to the way in which the injuries occurred with the employed person and as a result of the same. In the ruling of the Supreme Court of Serbia, it follows from the explanation: "Radnik claims that the damage was caused on the company's vehicle by the actions of third parties who had defectively attacked him when he turned away from the official road to perform a private business. If it is done by third parties, it should be assessed whether the diversion from an ordinary path is in an adequate causality with the action of third parties under the causality rules, causing only what is typical. Therefore, the diverting of the prosecutor from the road would not be causative with the occurrence of damage, if in a regular flow of things it does not lead to the risk of attack by third parties" (IBID Article 22, paragraph 3, in conjunction with Article 37, paragraph 2).

Furthermore, Article 22, paragraph 3, in conjunction with Article 37, paragraph 2 of the Law on Pension and Disability Insurance (IBID Article 22, paragraph 3, in conjunction with Article 37, paragraph 2), stipulates that an employee who sustains a violation on a regular road from his apartment to the place of work or vice versa, or on a journey taken for the purpose of carrying out his official duties, on the way undertaken for entering the work is entitled to a financial compensation. Since the legislator did not define the way in which the employee gets an injury that creates an injury on the way to the workplace (which is also justified given that injuries can occur in various ways), this in practice is often the case that the plaintiffs' will be rejected because some of the injuries can not be considered as the responsibility of the employer, which is confirmed by the verdict of the Supreme Court of Serbia (Rev 2178/93 of 24.06.1993.years), on the grounds: "The Prosecutor dated February 21, On the way from home to the respondent company in which he worked, he fell on the back and broke his left lower thigh. According to Article 34, paragraph 2 of the Law on Fundamental Rights from Pension and Disability Insurance, this violation is considered a violation at work and the plaintiff can exercise rights from health, pension and disability insurance, as if he was injured at the workplace. But, in order to exercise the right to compensation, this is not enough. There should be a basis and condition for the company's delicate responsibility. They do not, however. The company is not wrong with the prosecutor slipping in the back and enduring the injury. The injuries were not caused by dangerous things, that is, the dangerous activity of the company and the damage. In the light of the above-mentioned revision, it is baselessly stated that the lower courts had failed to refuse the request of the plaintiff to compensate his company for damages."

Therefore, the employer will be liable for the consequence of bodily injury to an employee in connection with work or injury at work or occupational illness only on the basis of objective responsibility or subjective responsibility, but not if they are excluded by the action of a third party or more force.
Namely, the employee does not have the right to compensation for damages from the employer due to a fall on the road to the workplace, since the injury was not caused by the employer's fault, nor can the employer be liable on the basis of objective liability.
This does not mean that an employed person is not entitled to a monetary compensation from the employer if the same person has opened a sick leave because of the injury sustained, because he is not able to perform the work and tasks that he performed until the injured (for example, the employed person is a driver and is identified by a fracture it is not able to maneuver a passenger motor vehicle with a leg injury), and the employer does not compensate him for the full amount of the salary (if he did not receive the full amount of the salary). An employed person has no legal basis to file a lawsuit against an employer for a material or non-pecuniary damage sustained.
In the specific case, bearing in mind the passive identity, in order to obtain compensation for damage, the place of the plaintiff's fall on the arena is important, that is, the place where the prosecutor suffered a violation (whether he will file a claim against the owner of a store if he fell in front of the store, since it is obliged to remove or clean the snow, snow or on the road for which the JKP "PUT" is in charge. - The provision of Article 5 of the Decision on the organization of a communal enterprise (,,Official Gazette of Novi Sad "no. 9/2013 and 28/2014)), it is determined that the main activity of the Public Enterprise is the construction and maintenance of roads, streets and other roads, bicycle and hiking trails, and the removal of snow and ice on roads, including salting sand and some other place) (The prosecutor filed a lawsuit against the City and PUC ,, Way "or the Town and the PUC ,,Water and Sewerage" (if he fell into a manhole for example) and request the competent court to solidoarno oblige the defendant to compensate the plaintiff)). Therefore, the fact that the employee moves from place of residence to work does not imply injury at work and in connection with work in accordance with legal provisions. The same critical situation may have occurred on the way to some other place of destination, so that the injured person's injury when moving at the workplace does not imply responsibility of the employer, unless there is no fault of the employer or responsibility regardless of the crisis (objective liability). A similar situation is if an employee is injured on the road from the apartment to the workplace due to a car accident, or biting the dog of the whore.

3. REIMBURSEMENT OF MATERIAL DAMAGE

Material damage is a violation of a person's property. This includes the damage that is caused to a person: the seizure, damage or destruction of a thing, the disabling of the use of things, by the disruption caused by the removal of which should be exposed to certain expenses, as well as in the event of a violation of the physical personality of the person: serious bodily harm, damage to health, and which requires costs of treatment, incapacity for work, loss of salary. It shall be compensated by the establishment of a previous state or payment of a monetary compensation in order to eliminate the harmful consequences, which is the amount of compensation determined at the prices at the time of passing the judgment, unless otherwise stipulated by law. Article 185 of the ZOO regulates the pecuniary damage compensation, prescribing that the responsible person is primarily obliged to establish a situation that existed before the damage was incurred. However, if the establishment of an earlier condition does not completely eliminate the damage, the responsible person is obliged to give compensation in the money for the rest of the damage. (Art. 185 paragraph 2. Law of Obligations).
For the damage incurred, the monetary compensation is paid in one-time amount, and the future damage in the form of a monthly rent. The fee is determined not only for ordinary

damage, but also for fraudulent benefit. The conditions for exercising the rights are the same in both cases. The claim for compensation of property damage occurs at the moment of causing damage. It goes to the heirs and when the victim dies even before the application for compensation for damage. When the fee is paid in the form of an annuity, only the claims that were due at the time of death are transferred to the heirs.

3.1. Compensation in case of death of a worke

If the injured worker's death is caused by an unlawful act of another, material damage may occur. It can happen that the first injury caused by the injured worker could not have been overcome and that his death would then occur. Accordingly, material damage can occur in the form of: burial costs and maintenance costs and durable assistance.

3.1.1. Refund of funeral expenses

In the event of death of workers at work or in connection with work, the employer is obliged to reimburse the usual expenses of his funeral, to the person who made those expenses. The expenses of the funeral do not include the costs of maintaining various customs regarding the funeral, which is confirmed by the judgment of the Court of Associated Labor of Serbia in 1983. (The decision of the Labor Court of Serbia, no. 145/83 from 01.04.1983, Collection of case law from 1975 to 1985). The Court's position is that "the usual expenses of the funeral do not include costs for the purchase of food and drink for the funeral party. These costs fall into the expenses of the custom of burial, so they can not be included in the ordinary expenses of the funeral itself. The usual burial expenses that the employer should compensate include: the purchase of a suitcase, a lid, a crochet, and so on. "In addition, the usual expenses that the employer is obligated to pay to the family of the deceased is also the expense for lifting the tombstone. "When determining the amount of the fee for raising a tombstone, only the average price of a regular monument is taken into account in a place where the tombstone was erected, and not the real expenses of the family of the killed worker for the building of a monument" (The decision of the Labor Court of Serbia No. 3291/79 of 15.06.1979. Proceedings of case law from 1975 to 1985). The employer is obliged to reimburse the costs of his treatment of the sustained injuries and other necessary expenses related to treatment, as well as earnings lost due to incapacity for work (Art. 193. Law on Obligations). The reimbursement of the funeral expenses may be claimed by the person who has the costs and had; It does not have to be a close relative. If something is obtained for the cost of a funeral based on social security, this has to be taken into account. The employer will bear only the difference between the received from the social security and the total cost of the funeral.

3.1.2. Compensation of maintenance and durable help

In addition to compensation for the costs of a funeral, compensation may also arise in the form of an obligation to support certain persons after the death of the worker. The person who killed the worker sustained or regularly assisted, as well as those who were legally entitled to claim support from the deceased, are entitled to compensation for the damage they suffer from loss of support or assistance. This damage is prompted by the payment of annuity annuity, the amount of which is measured with regard to all the circumstances of the case, which can not be greater than what the injured person would have received from the deceased that he had survived (Art. 194 paragraph 2. Law of Obligations.).
Likewise, the person who died on a regular basis has the right to require the employer to compensate him for lost help. Only regular help is available (regular monthly delivery of certain material resources necessary for life, and they can consist of money, groceries, clothes,

footwear, etc.). It would not be possible to take into account occasional help, help with an event (for a birthday, a new year, etc.).
A person legally entitled to claim support from the deceased (eg parents, spouse, children, etc.) may also claim compensation from the person responsible for suffering loss of support. In this case, they are persons who did not receive this support, but they are entitled to it under the law, if the necessary conditions are met. This person must prove his / her right to support and fulfill the necessary conditions. It is not enough to prove that they are entering the circle of persons who by law have the right to subsist.
Compensation for loss of maintenance is effected by paying the monetary annuity the amount of which is measured, given all the circumstances of the case, which can not be higher than the injured person actually received from the deceased worker that he remained alive. The monthly rent is paid monthly, in advance. It may also be increased or reduced or eliminated if an appropriate change of circumstances occurs.
The court determines the time for which the employer will pay the rent, but it can not be longer than the time the killed worker probably lived, that there was no violent death "O liability labor organizations for damages caused by an accident at work and on the types of fees." Legal Life 1:61) (Zivkovic 1970).
If certain persons in the name of maintenance or compensation due to the death of workers received from social insurance a family pension, the employer could only be charged the difference between what the injured party would have on the basis of tortious civil liability and what he receives from social security, because in this In the case of income from social security, they have the character of compensation.

3.2. Compensation in case of injury at work and occupational illness

Compensation for injury in the event of an injury at work and occupational diseases refers to compensation for costs of treatment, care and recovery, compensation for loss of earnings during temporary incapacity for work and compensation of lost wages due to permanent, complete or partial loss of general working ability, and its special vision is a loss of occupational working ability.

3.2.1. Compensation for treatment, care and recovery costs

The reimbursement of this damage includes the costs that were useful for removing the consequences of the injury, but they were not covered by social insurance. The special category of treatment expenditure includes the cost of a close family for hospital visits, but to the extent that those visits are financed from the property of the injured worker.
Treatment costs and other necessary expenses related to treatment depend on sustained injuries and damage to health, of their weight and volume. There are places to compensate for only the necessary costs, not unnecessary, and in particular costs that would result from expensive methods of treatment (treatment instead of existing regional hospitals and rehabilitation centers, in other private and luxury hospitals and rehabilitation centers). Other treatment costs include the necessary cost of the reward to persons who had to be taken to provide help and care for the patient - the escort, the carer in the house after being discharged from the hospital (Basic Court in Doboj decided "that the name of someone else's care and assistance for a certain period of stay in the hospital, the parents of the injured workers pay a total of 3 400, 00 KM including statutory default interest". Judgment of the Basic Court in Doboj, No. P-251/05 of 25.01.2007).
The injured person who is unable to take care of himself has the right to compensation for the damage to someone else's help. Accrued damages are determined in a one-off amount, and future in the form of monthly annuity.

The duration of damage during treatment is limited by time necessary, from a medical point of view, to train the employee to continue to work and this damage is paid in a one-time amount.

3.2.2. Compensation of lost earnings during temporary incapacity for work

If the injured worker does not earn a personal income during the treatment during the course of treatment, he / she is entitled to compensate for this on a regular basis. Judicial practice stands at the point of view, and the theory supports this, that it equals personal work under a contract of work or other type of earnings with personal income. The injured worker would have the right to compensation and all unrealized income based on work. If an injured worker receives a social security benefit, that benefit will be calculated in the compensation that the employer is required to provide. This is because social security benefits have the character of compensation, and it can not be higher than the damage incurred. In case a social insurance worker has not received a completely lost personal income or earnings, he has the right to collect the difference from the responsible person. Personal insurance benefits are not taken into account because they do not have the character of compensation. These benefits can be cumulated with a claim for compensation of lost personal income or earnings.

3.2.3. Compensation of lost earnings due to permanent, complete or partial loss of general and occupational working ability

Lost earnings due to permanent, complete or partial loss of general working ability is one aspect of lost earnings, and its special aspect is loss of occupational working ability, which prevents the work done by the employee to do so.
This fee refers to those costs that the injured worker (Rappin and Wuellner and Bonauto 2016) has due to the reduced or lost ability to perform tasks that meet life and practical needs such as: household work, food supplies, hygiene maintenance and the removal of petty defects in the apartment, garden nursing, washing own car. The compensation is determined in the amount of expenses for other workforce, who is injured because he or she is unable, as a result of physical injuries or damage to health, to do the same, as before the injury.
Naknada se dosuđuje u obliku mjesečne rente, a izuzetno (kad postoje uslovi), u jednokratnom iznosu koji se utvrđuje kapitaliziranjem rente.
Loss of occupational working capacity occurs in a situation where an employee is unable to deal with his / her occupation due to an injury or occupational illness. The loss of occupational working ability of the damage consists in the negative difference between the disability pension, which the injured person receives because of his complete incapacity for work, and the earnings he would have incurred in order to prevent the injuries that caused this incapacity.
This is confirmed by the judgment of the Basic Court in Doboj (P - 251/05 of 25.01.2007. years), which states, inter alia: "from the evidence presented, and especially appreciated the findings and opinions, as well as the allegations by the expert neuropsychiatrist that the Prosecutor has in mind his injuries and the degree of disability found, the possibility of no progress and development, and considering his age of 21 years of age, the court considers that the prosecution's claim and, in respect of money annuities, on this basis from (160 convertible marks), a month from 21.04.2005. year, and so long as legal reasons existed, established." Thus, the Court adopted the prosecution's claim in respect of monthly monetary annuities, as it had previously established that the injured worker was permanently disabled for further work and promotion, and, besides, it was the same the disabled person, that is, the employee is retired because of the injuries he sustained at work, and his monthly rent is paid as long as there are legal requirements for this, so that "the remaining installments will be paid out at once, and due in monthly advance no later than the

fifth in the month, final payment, under threat of compulsory execution" (Judgment of the Basic Court in Doboj number: P - 251/05 of 25.01.2007. years).

Damage compensation is determined in a one-time amount and in the form of monthly annuity. The one-time fee relates to the period of return to work (in case of a reduction in occupational working ability), ie from determining the complete incapacity (in case of loss of occupational working ability) until the conclusion of the hearing or settlement in court. Monthly annuity compensation refers to the reparation of future damages, i.e. damages that will arise successively after the conclusion of the discussion or conclusion of the settlement. Payment of monthly annuity is not time-limited and lasts as long as there is damage.

The reimbursement of future damages can also be deducted in a single amount. Such a possibility is related to the agreement of the parties or, in the absence of an agreement, for the justified interest of the injured party (need for economic independence, insecurity of the debtor, difficult conditions for enforcing the decision, etc.) which is determined on a case-by-case basis. Determining the fee in the total amount is done by capitalizing the monthly annuity, i.e. Actuarial calculation of the present value of future benefits with the calculation of the interaccumat .

4. THE QUESTION OF THE BEGINNING OF THE LIMITATION PERIOD

Pursuant to the provisions of Article 376, paragraphs 1 and 2 of the Law on Obligations (IBID Article 376, paragraph 1 and 2), it is stipulated that the claim for compensation for causally damages expires within three years from the time when the pest was found to be harmful and for the person who caused the damage (subjective period), and in any case this claim expires five years after the damage has occurred (objective time).

Namely, if an employee is suffering from an occupational disease due to a health condition or a reduction in his / her life activity, the limitation period does not relate to the moment of occurrence of damage, but to the moment of termination of treatment, which is confirmed by the Supreme Court of Serbia (Rev II 257/06 of 6.4.2006. years) verdict on the grounds: "According to established facts, the prosecutor was employed by the defendant in the period from 1979 to 1999 at the workplace of the cutter - motorcyclists. His employment was terminated by the law because of the loss of working ability and the fulfillment of conditions for invalidity pension (Decision I.18839 of September 5, 2001). Disability occurred as a result of a occupational illness. As a consequence of the occupational illness of the prosecutor, there is a decrease in general life activity of 25%. Treatment has begun since 1987, and the lawsuit was filed in 2003."[2]

In the stated audit, the Prosecutor stated that the material fact was incorrectly applied to the established facts, since the claim was rejected as unfounded.

Further from the same reasoning: "... to begin the course of the delays of delinquent damage is the relevant knowledge of the injured party for damage and for the person (pest) who caused the damage. Damage also includes the amount of damage. In case of damage, but its volume is not yet known (the percentage and manifestations of reduced life-activity worsening over time), the extent of the damage can not be determined and reflected, the starting moment of the emergence of the gun, but the end of the treatment, because only then can a degree physical impairment and manifestation of the reduction of life activity.

Bearing in mind that the treatment of the prosecutor has not been completed and that the level of deterioration in life activity has grown negatively from the moment of injuries and in the future, this is an unacceptable conclusion of the second instance court that the moment of finding out the extent of the damage is related to the time when the injured person was told that the disease was caused by the injuries permanently. Therefore, bearing in mind that the treatment of the plaintiff has not been concluded that the reduction in life activity due to the

consequences of a occupational illness is deteriorating, as well as having in mind the fact that the year is not over and that the disease is still ongoing. "
Accordingly, the limitation period for exercising the right to compensation is to be counted from the day of completion of treatment, and because only then is the known extent of the damage suffered by the employee.

CONCLUSION

The process of social change that has marked the past 30 years has led to the transition from industrial to post-industrial production, and the emergence of new social risks. Government insecurity on the market and many workers are out of work.
The impact of the working environment on the occurrence of a occupational illness or on a sustained injury at work or in connection with work is enormous, because the quality of the worker's life will depend on the quality of the worker's life in the future, or his state of health.
Although prescribed, we are witnessing that employees often do not use protective devices at work. In some cases, this can be attributed to the indiscipline of an employed person or the unemployment of a company (employer) who is unable to obtain all the necessary equipment. Workers should also be subjected to a medical examination at least once a year, and not more than once. The medical examination is obligated to pay the employer, and given the majority of companies (employers), it often happens that some employees were not on the medical examination for years.
It is a complex process of diagnosing and recognizing occupational illnesses or injuries at work or in connection with work, and it requires the cooperation of experts and the use of several scientific disciplines.
The job is only one of the possible causes of illness or injury at work or in connection with work. Not all diseases are considered occupational. When determining the same, it is crucial to determine the clinical picture of the disease on one side, as well as the harmfulness of the workplace on the other side, and finally, the last thing to prove is their immediate causal relationship.
Any employed person, if found to be occupationally ill or injured at work, has the right to compensation for both material and non-pecuniary damage. Bearing in mind the different legal systems, there are significant differences when it comes to the amount of compensation for damages that is awarded to an employee due to a occupational illness or injury at work. Differences are reflected both in evaluation and in the amount of damage. Thus, under German law in the event of the death of an employed person, the law does not allow the granting of compensation to relatives, while in Dutch law close relatives have the right to compensation and are not necessary to prove mental pain (Pscheidl 2006). The general provisions of the Spanish law do not distinguish pecuniary and non-pecuniary damage, so that legal doctrine and courts consider all damages to be recoverable and are very generous, in particular, in compensation for non-pecuniary.
In order to prevent occupational diseases and injuries at work or in connection with work, it is necessary for the employer to provide legally prescribed working conditions, and to place the employed persons under medical examination, both before entering into jobs where there is an increased risk of occupational illness , as well as during work engagement. It would be desirable to conclude a contract on systematic inspections of enterprises or employers with Clinical Centers, since in this way it would be possible to systematically monitor the health status of each employed person, and thus prevent the occurrence of more serious forms of occupational illness.
As today, domestic firms (employers) rarely boast of successful and stable operations, employers avoid any form of additional costs, including the cost of systematic review of employees, and if, if they occupationally ill worker or suffer injury at work or in connection

with the work, they are not aware that the fee they are obligated to pay is much higher than the employer's expenses in the name of a systematic review of employees.

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