

CHAPTER EIGHT
REMEDIES

8.5. COMPENSATION: PERSONAL INJURY AND DEATH

8.5.2. FRENCH LAW

Introductory Note

a) As already stated, the French Civil Code contains no specific provisions dealing with recoverable damage. Moreover, as discussed in Chapter II, there is no limitation on the rights that are protected. That does not prevent the general picture of recoverable heads of damage from displaying basic similarities with that of other legal systems:

– In case of *death*, the defendant is liable for funeral and other expenses incurred in connection with the death,¹ for the loss of income or support received by dependents, irrespective of whether they had a legal right to maintenance or not,² and for pain and suffering (*préjudice d'affection*) sustained by them, regardless of the proximity of the relationship.³

– In case of *personal injury*, the injured person is entitled to compensation for medical and similar expenses,⁴ for the harmful effects on his physical condition and earning capacity (irrespective of whether there is tangible pecuniary loss or not),⁵ including pain and suffering sustained by the primary victim, classified as loss of amenity (*préjudice d'agrément*), sexual impairment (*préjudice sexuel*), aesthetic harm (*préjudice esthétique*), particular damage suffered by a minor (*préjudice juvénile*), pain and suffering (*préjudice de souffrance* or *pretium doloris*),⁶ and bereavement or pain and suffering sustained by third parties (*préjudice d'affection*) on account of injury to the primary victim, regardless of the proximity of the relationship.⁷

¹Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at para. 186ff.

²Chartier, *ibid.* at para. 194ff; Viney, *Effets* at para. 135ff. *Supra* Chapter II, **2.F.19.** and Note (3) thereafter.

³*Supra*, Chapter I, **1.F.24.-25.**, Note (2).

⁴Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at para. 167, Viney, *Effets* at para. 110 (noting that the costs of visiting the victim may be reimbursed provided that they are the direct and necessary consequence of the injurious event).

⁵Chartier, *ibid.* at para. 168ff; Viney, *ibid.* at para. 112ff.

⁶Chartier, *ibid.* at para. 175ff; Viney, *ibid.* at para. 142ff.

⁷Chartier, *ibid.* at para. 202; Chapter I, **1.F.24.-25.**, Note (2).

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b) A special feature of the French law of damages in case of personal injury is the recognition of “bodily harm” (*préjudice corporel*) as a head of damage which goes beyond the clear-cut distinction between material and non-material loss.⁸ The methods of assessment of such harm mean that *future damage* is assessed in a rough and ready way, not based upon any concrete quantification of pecuniary loss sustained by the victim. Moreover, the case law is affected largely by questions relating to social security indemnities and their influence on compensation in tort.⁹

c) When assessing compensation for future damage, the question arises whether circumstances such as prospects of remarriage,¹⁰ prospects of an occupation offering higher remuneration,¹¹ or a new profession taken up by a spouse after the death of the marriage partner, are to be taken into account.¹²

The assessment of the plaintiff’s need for assistance as a consequence of his or her remaining disability or continuing ill-health is also discussed.¹³

*Cass. civ. 2e, 3 June 1955*¹⁴
Établ. Cabour v. Lecat

8.F.44.

ASSESSMENT OF DAMAGE RESULTING FROM DISABILITY

Injured employee

Physical harm constitutes a recoverable head of damage as such.

Facts: The plaintiff sustained a partial disability, which was assessed at 33 per cent. He retained his occupation and salary but claimed damages nonetheless.

Held: The Cour de cassation upheld the judgment of the court of appeal, granting damages notwithstanding the fact that the plaintiff was able to increase his income thanks to additional efforts on his part.

Judgment: “The contested judgment is criticized for having ordered [the defendants] to pay to [the plaintiff] the sum of FRF 2,890,040 ... on the basis of a 33 per cent invalidity. The grounds of the decision make clear that, through additional effort, the victim had increased his earnings since the accident, the reduction of his working capacity being purely theoretical, and thus he had not sustained any harm under this head which could give rise to monetary compensation.

However, to assess the harm sustained by a salaried employee, it is irrelevant that the accident has no direct effect on his salary. The preservation of the latter should not be taken

⁸*Infra*, **8.F.44.**

⁹*Ibid.*, Note (2).

¹⁰*Infra*, **8.F.45.**

¹¹*Ibid.*, Note (2).

¹²*Infra*, **8.F.47-48.**

¹³*Infra*, **8.F.46.**

¹⁴D 1956.Jur.69, annotated by A. Tunc. Translation by Y.P. Salmon.

into account as a ground for refusing him any compensation or for reducing the damages to which he is legally entitled; only the reduction of his physical capacity should be taken into consideration in the assessment of harm.

In accepting the report of experts assessing [the plaintiff's] overall invalidity at 33 per cent and, taking into account his share of liability, determining that the harm suffered by him required an award of damages in the sum of FRF 2,890,040, the trial judges merely exercised their *pouvoir souverain* of assessment and founded their decision on a correct legal basis."

Notes

(1) The excerpted case deals with a peculiarity of the French law of damages relating to personal injury: the recognition of "bodily harm" (*préjudice corporel*) as a head of damage which goes beyond the clear-cut distinction between material and non-material loss.

The case deals with a disabled employee who retained his occupation and, thanks to his own efforts, was able to increase his income. Consequently, he did not sustain any pecuniary loss. Nonetheless he was compensated for adverse effects of the wrongful event on his physical capabilities (*la diminution de la capacité physique*). This head of damage, called in legal writing *préjudice physiologique* (physiological harm),¹⁵ is distinguished from what is called *préjudice économique* (economic harm), that is to say "a reduction in the present or future income of the victim including ... the loss of chance of income".¹⁶ The distinction between these heads of damage is not always made and it was – and to a large extent still is¹⁷ – legal practice to assess damages for both under the denomination "*incapacité permanente partielle*" ("partial permanent incapacity", abbreviated as "I.P.P.").

It may be noted that a *préjudice physiologique* may affect the victim's professional activity even where it does not lead to tangible pecuniary loss, as in the excerpted case, where pecuniary loss was avoided by the plaintiff due to additional efforts on his part to carry out the same work.

(2) The definition of *préjudice physiologique* is very important with regard to the right of recourse enjoyed by *tiers payeurs* (third parties who pay some form of compensation to the victim, mainly social security institutions).¹⁸

Before the Act of 27 December 1973,¹⁹ the social security institutions (*caisses de sécurité sociale*) were entitled to recoup their expenditures from the defendant in full, regardless of whether the harm sustained was of a material or non-material nature and there was no need to distinguish between heads of damage resulting from personal injury. Consequently, it was common practice to assess damages as a

¹⁵Viney, *Effets* at para. 119; Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at para. 172-173.

¹⁶Chartier, *ibid.* at para. 173; compare Viney, *ibid.* at 118.

¹⁷M. Quenillet-Bourrié, "L'évaluation monétaire du préjudice corporel: pratique judiciaire et données transactionnelles" JCP 1995.I.3818 at para. 11.

¹⁸ On this point, see also *supra*, Chapter II, **2.F.15.-17.**, Note (1).

¹⁹Act 73-1200 of 27 December 1973, JO, 30 December 1973, D 1974.Lég.42. See *supra*, Chapter VI, **6.F.16.** and Note (1) thereunder.

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global figure (*toutes causes confondues*). The Act of 27 December 1973 confined the right of recourse of social security institutions to only a part of the damages to which the plaintiff was entitled.²⁰ As the law now stands, *tiers payeurs* may recoup their expenditure “limited to the part of the indemnity which constitutes compensation for the infringement of the physical integrity of the victim, *other than the share of the indemnity of a personal nature which corresponds to the [victim’s] physical or moral suffering and to aesthetic damage and loss of amenity (préjudice d’agrément) [emphasis added]*.”²¹

This provision has given rise to remarkably divergent case law.²² G. Viney summarizes the prevailing view thus: “among the non-economic consequences of the physical injury, the [Cour de cassation] continues to distinguish between on the one hand, those which are traditionally labelled as non-material damage (*dommage moral: pretium doloris, préjudice esthétique, préjudice d’agrément* and *préjudice d’affection*) and, on the other hand, the physical incapacity itself. Only the compensation of damage concerned with the first of these two categories currently escapes the right of recourse of the *tiers payeurs*.”²³

(3) The current methods of assessment of damages also bring with them a confusion of tangible pecuniary loss and other, material and non-material, harm resulting from the victim’s disability.

In the French law of damages, a distinction is drawn between “*incapacité temporaire*” and “*incapacité permanente*”. The first relates to the period from the injurious event until the moment when the plaintiff’s condition would not normally be expected to improve (“*consolidation*”). The material damage with regard to this period is assessed in a precise way, by comparing the plaintiff’s actual income and what would have been his income if the injurious event had not occurred. By contrast, damages granted for “*incapacité permanente partielle*” (I.P.P.)²⁴ are commonly assessed in a rather “rough and ready” way.

There are two classical methods of assessment: *le calcul mathématique* and *le calcul au point*.²⁵ Both methods are based upon an assessment of the invalidity, in terms of percentage, on the advice of an expert appointed by the court. In practice, tariffs are elaborated on the basis of which the experts fix the degree of disability as a percentage.²⁶ The *calcul mathématique*, confined to the assessment of the *préjudice économique*, multiplies this percentage by the plaintiff’s annual income and the result constitutes the amount of the annual loss, which may be capitalized taking the plaintiff’s age into account. The *calcul au point*, which relates to all damage resulting from the I.P.P. and not only to the *préjudice*

²⁰Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at para. 334. This change has been confirmed and generalized by the *Loi Badinter*, *supra*, Chapter VI, **6.F.16**, with regard to the right of recourse of other tiers payeurs.

²¹Art. 32 of the *Loi Badinter*, *ibid*.

²²See for more details Viney, *Effets* at para. 106-107, 120 and 153ff, especially para. 166.

²³Viney, “Chronique”, JCP 1995.I.3853 at para. 22. See also Cass. civ. 2e, 19 March 1997, D 1998.Jur.59 (two judgments), annotated by Y. Lambert-Faivre. As to the heads of *dommage moral*, see the Introductory Note, para (a), above.

²⁴The *incapacité permanente* is always considered to be partial, even when the disability amounts to 100 per cent: Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at 222, para. 172.

²⁵Viney, *Effets* at para. 129-130.

²⁶See for more details Viney, *ibid*. at para. 126ff.

économique, multiplies the percentage of disability by a conventional sum which may differ from court to court. The courts' tariffs are regularly examined in legal writing.²⁷

It has been observed that such classical methods of assessment do not take into account the pecuniary loss which the plaintiff actually sustains or may sustain in the future. It is suggested therefore that damages should be assessed "*in concreto*" on the basis of the sustained pecuniary loss, rather than on the basis of a percentage disability, to which a sum should be added as compensation for non-material damage.²⁸

(4) It is evident from the reported case law that the assessment of damages appears to be essentially conventional and it is only exceptionally supported by explicit reasoning.

For instance, the harm consisting in '*I.P.P. et préjudice financier*', sustained by a severely brain-damaged child aged eleven (I.P.P. assessed at 90 per cent) was assessed in a judgment of the Court of Appeal of Paris of 31 May 1994²⁹ as follows: "The very significant physical and neuro-psychological after-effects described by the experts have considerable effects on the everyday life and future of the young victim, since he is incapable of any mental or physical activity and no reintegration is possible. He thus sustains and will suffer exceptional physiological and financial harm all his life, to which it is appropriate to attach the sum requested: 2,500,000 FRF".

It may be noted that there is hardly any reported case law with regard to the assessment of loss of housekeeping capacity.³⁰

*Cass. crim., 7 July 1966*³¹
Desombres v. Pocreau

8.F.45.

ASSESSMENT OF FUTURE DAMAGE: PROSPECTS OF REMARRIAGE

Young widow

A widow's prospects of remarriage are hypothetical and may not be taken into account when damages resulting from her husband's accidental death are assessed.

Facts: The plaintiff, a young widow, claimed compensation for the damage resulting from her husband's death.

Held: The court of appeal reduced the amount of damages, allowed at first instance, on account of the widow's prospects of remarriage. The Cour de cassation quashed the judgment of the court of appeal.

²⁷See recently M. Quenillet-Bourrié, "L'évaluation monétaire du préjudice corporel: pratique judiciaire et données transactionnelles", JCP 1995.I.3818.

²⁸Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at para. 537.

²⁹Gaz.Pal.1995.Pan.620.

³⁰But see Y. Chartier, *La réparation du préjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at para. 536, 528 and 544.

³¹JCP 1967.II.14943, annotated by P.L. Translation by Y. P. Salmon.

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Judgment: “While the assessment of the harm incurred by the alleged victim of a wrong falls within the sovereign powers of the trial judges, it is otherwise when that assessment is based on erroneous grounds.

The court of appeal reduced the level [of damages allowed by the judges at first instance] on the grounds of the possibility of the young widow’s remarriage.

The award imposed on the author of the wrong should be fixed definitively on the day of the decision and should be determined by a consideration of the current, direct and certain harm (*préjudice actuel, direct et certain*) caused by the wrongful act.

Consequently, the appeal judges could not rely on a hypothetical event in their assessment of the harm sustained by the widowed Mrs. Desombres.”

Notes

(1) This case deals with a basic rule concerning the assessment of future damage: the court may take into account only *préjudice actuel, direct et certain* (current, direct and certain harm).³² Hypothetical elements such as the prospect of remarriage are to be left out of consideration, as the excerpted judgment shows.³³ That approach has been confirmed more recently by the Cour de cassation, quashing a court of appeal judgment which had decided that the Muslim plaintiff would, according to religious custom, very probably remarry, an event which, albeit customary, was nonetheless to be considered as hypothetical.

The annotated judgment seems not to preclude the financial benefits of an actual remarriage from being taken into account.³⁴

(2) One should not conclude from the annotated judgment that the French law of damages excludes the possibility of taking account of future prospects when assessing damages. Indeed, the loss of prospects of a more remunerative occupation is frequently compensated for as a loss of a chance, provided that the loss constitutes certain and actual harm resulting directly from the accident.³⁵ However, the full benefit of an expected increase of income may not be taken into account:³⁶ the uncertainty as to the materialization of the lost chance is offset by granting an amount of damages assessed at an appropriate proportion of the amount that the

³²Which does not preclude the compensation of future damage if it appears to be the “unquestionable and direct prolongation of a current state of affairs and its immediate assessment is practicable” Cass. Req., 1 June 1932, D 1932.1.102, report by Pilon. See *supra*, 8.3.3., Introductory Note and Viney, *Effets* at para. 277. The notions of “direct” and “certain” harm also play a role in the assessment of causation: see *supra*, Chapter IV, 4.1.3.

³³Cass. crim., 11 October 1988, Gaz.Pal. 1989.Jur.93, and for comment see RTDciv.1989.337.

³⁴Paris, 26 May 1967, Gaz.Pal. 1967.2.248. See also Y. Chartier, *La réparation dupréjudice dans la responsabilité civile* (Paris: Dalloz, 1983) at 196.

³⁵*Inter alia* Cass. civ. 2e, 9 July 1954, D 1954.627; Cass. civ. 2e, 20 December 1966, D 1967.Jur.669, annotated by M. Le Roy; Cass. crim., 24 February 1970, D 1970.Jur.307 and JCP 1970.II.16456, annotated by P. Le Tourneau; Cass. civ. 2e, 27 February 1985, Bull.civ. 1985.II.36. On loss of a chance, see also *supra*, Chapter II, 2.F.11. and Note (2) thereafter, 2.1.5, 2.F.43., 2.3.5. and 2.E.49., as well as Chapter IV, 4.2.2.

³⁶Cass. crim., 3 November 1983, JCP 1985.II.20360, annotated by Y. Chartier.

plaintiff would have been awarded had there been a complete certain materialization of the chance.

*Cass. civ. 2e, 14 October 1992*³⁷

8.F.46.

Schmitt v. Laporte

ASSESSMENT OF ASSISTANCE BENEVOLENTLY RENDERED BY RELATIVE

Mother taking care of injured child

The injured person is compensated for the assistance benevolently rendered by relatives, damages being assessed irrespective of whether assistance is rendered by a relative or by a professional.

Facts: A child was injured in a traffic accident and required assistance as a consequence of her injuries. Her mother took care of her. Damages were assessed on the basis of the cost of professional assistance.

Held: The court of appeal allowed the claim. The Cour de cassation upheld the judgment of the court of appeal.

Judgment : “The judgment is criticized for having fixed, as it did, the amount of damages under the head of third party assistance. The criticism was, first, that the necessary legal consequences were not drawn from the court’s finding that Mrs. Laporte looked after her daughter full-time; because damages have to be assessed on the basis of the situation at the time of the judgment, the judgment then took into account in its assessment wage costs which were not incurred and thus [it is said], failed to apply Art. 1382 C. civ. correctly; the second criticism was that the judgment does not enable the Cour de Cassation to verify that the sums awarded did not exceed the damage...”

However, the court of appeal finds, correctly in law, that the level of the award allowed under the head of third-party assistance should not be reduced in the case of assistance given by a relative and should not be conditional on the production of evidence of costs actually incurred.”

Notes

(1) The excerpted judgment, with its very brief reasoning, indicates that French law reaches a solution largely similar to that found in German law: first, the plaintiff is compensated for the assistance rendered benevolently by relatives; secondly, it is immaterial whether the plaintiff spends the sum of money in accordance with the purpose for which it is granted since the compensation is not conditional upon evidence of expenses actually incurred (“*justifications des dépenses*”); thirdly, damages are assessed on the basis of the cost of professional assistance. However, French law seems to go further than German law – at least as to its definition of the

³⁷Bull.civ. 1992.II.119. See for a comment: P. Jourdain, “Chronique”, RTDCiv.1993.144. Translation by Y.P. Salmon.

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recoverable damage³⁸ – since the full cost of professional assistance, including social security contributions, is taken into account regardless of whether assistance is in fact rendered by a relative or a professional.³⁹

The civil chamber of the Cour de cassation reached this conclusion only recently. In 1989, it still adhered to the view that the assessment of damages was dependent on the question of whether assistance was rendered by relatives or third parties.⁴⁰ It also decided that where the victim's spouse renders assistance, the spouse himself or herself is entitled to compensation; in this respect it was held to be immaterial whether the rendered service exceeded what was required by "the duty of spouses to assist".⁴¹ The criminal chamber had already reached the solution of the annotated judgment.⁴²

(2) Where damages are granted in the form of periodical payments, the actual way in which the plaintiff is assisted may be taken into account to a greater extent, as was held in a judgment of the criminal chamber of the Cour de cassation, which upheld a judgment differentiating the amount of periodical payments depending on the plaintiff's living conditions.⁴³

³⁸There may be a substantial difference between theoretical rules and legal practice. An authoritative commentator wrote in 1989: "It will be noticed that admittedly the judges have a sovereign capacity to appreciate and evaluate the damage, and that nothing prevents them from taking account of a probable remarriage or probable assistance of the victim by close relatives as circumstances tending to decrease the extent of the damage. Their decision will be safe from any criticism if they had the prudence not to state it explicitly. But this relative flexibility in the solutions, which depends only on the ability to draft the judgment, does not in any way affect the rigour of the principles": see P. Jourdain, "Chronique", RTDCiv. 1989, 338.

³⁹But see Paris, 31 May 1994, Gaz.Pal. 1995.Pan.620 where reimbursement of social contributions was granted only insofar as sufficient proof of their payment was produced.

⁴⁰Cass. civ. 2e, 21 June 1989, Bull.civ. 1989.II.66.

⁴¹Cass. civ. 2e, 13 December 1978, Bull.civ. 1978.II.208; Cass. civ. 2e, 18 March 1981, Bull.civ. 1981.II.45.

⁴²Cass. crim., 11 October 1988, Bull.crim. 1988.906, emphasizing that the assistance rendered by relatives, if they are not bound by law to render assistance, is an "element in the assessment of harm which is hypothetical and external to the victim himself". See for comment P. Jourdain, "Chronique", RTDCiv.1989, 337.

⁴³Cass. crim., 19 December 1991, RCA 1992.170. See for comment P. Jourdain, "Chronique", RTDCiv.1993, 144-145.

*Cass. civ. 2e, 3 October 1990*⁴⁴ **8.F.47-48.**
and
*Cass. civ. 2e, 2 November 1994*⁴⁵
Compagnie General Accident v. Bauthéas

COLLATERAL BENEFITS:
THE BENEFITS RESULTING FROM THE WIDOW'S PROFESSIONAL ACTIVITY

Management of husband's firm by his widow after his death

The benefits of a profession taken up by a widow after her husband's death may not be taken into account when damages resulting from her husband's death are assessed.

Facts: The plaintiff's husband was killed in an accident. Prior to the accident the plaintiff had been a housewife, but upon his death she took over the management of her husband's firm. She claimed compensation for "*préjudice économique*" (economic harm) resulting from the husband's death.

Held: The court of appeal held that the widow's professional activity after her husband's death was not to be taken into account and that damages were to be assessed on the basis of the situation at the time of death and the loss of the resources resulting from his activity which had endured for the family's benefit. The Cour de cassation quashed the judgment (first judgment). However, the court of appeal to which the case was referred, refused to take account of the widow's new activity and this time, the Cour de cassation upheld the court of appeal's judgment (second judgment).

1. *Cass. civ. 2e, 3 October 1990* **8.F.47.**

Judgment: "If the author of a wrong is required to compensate the harm in full (*réparation intégrale du préjudice*), the necessary award to compensate the harm must be calculated on the day of the decision which establishes the victim's right to damages (*créance indemnitaire*).

In taking the husband's date of death to assess the harm sustained by the victim the court of appeal failed to apply correctly the aforementioned provision [Art. 1382 C. civ.]."

2. *Cass. civ. 2e, 2 November 1994* **8.F.48.**

Judgment: "The judgment [of the court of appeal] is criticized for having assessed as it did the economic loss (*préjudice économique*) sustained by Mrs. Bauthéas by reason of her husband's death, on the ground that the court of appeal should have taken into account the increase in her income which was made possible only by the death of the husband whose

⁴⁴Bull.civ. 1990.II.94; RCA 1990.399. Translation by Y.P. Salmon.

⁴⁵Bull.civ. 1994.II.125; see for comments on this judgment M.-A. Peano, "L'activité entreprise par la veuve depuis le décès", RCA 1995.3, and P. Jourdain, "Chronique", RTDCiv.1995, 128. Translation by Y.P. Salmon.

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position she herself immediately filled, assuming his professional affairs; and for thus failing to apply Art. 1382 C. civ. correctly.

However, the contested judgment states that this situation is not *the direct and necessary consequence of the death*, but results from the activities that Mrs. Bauthéas exercised after the death and therefore should not be taken into consideration [emphasis added].

In so ruling the court of appeal, which in assessing the harm was required to take into account only those elements that were connected with the death [i.e. its direct and necessary consequences], did not give ground for the criticism.”

Note

These judgments show the uncertainty which surrounds the question of which circumstances arising after the injurious act may affect the assessment of damages. First, there is uncertainty about the rule which governs that question. The first excerpted case refers to the principle that the damage is to be assessed at the date of judgment, a view which may mean that every change occurring after the injurious event, but before the final judgment, has to be taken into account. However, as is evident from the second excerpted case, considerations of causation come into play: in theory, only the direct and necessary consequences of the victim's death may be taken into account.⁴⁶ That criterion, however, leaves much scope for discussion. For instance, it may be questioned whether the latter judgment means that the benefits of a remarriage that has taken place by the date of the judgment are no longer to be taken into account. Indeed, neither remarriage itself nor any benefits resulting from it may be considered to be the direct and necessary consequence of the victim's death.

The ultimate solution of the annotated case has been approved, mainly for policy considerations: it would be unjust to give the defendant credit for results of the surviving spouse's effort to take up her husband's professional activity to mitigate the loss of income resulting from the defendant's tortious act.⁴⁷

Finally, it would appear from the general wording of the second excerpted judgment that a dependent is not under a duty to mitigate the damage resulting from the death of the primary victim by finding employment.⁴⁸

⁴⁶ On these points, see *supra*, Chapter IV, 4.1.3.

⁴⁷ P. Jourdain, “Chronique”, RTDCiv. 1995, 131; M.-A. Peano, “L'activité entreprise par la veuve depuis le décès”, RCA 1995, 3 at 4-5.

⁴⁸ See in the same way as in the annotated case: Cass. crim., 3 March 1993, Bull.crim.1993.233, concerning a widow who was unemployed at the time of her husband's death and was then engaged by her husband's socially concerned employer.