

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
LOUISIANA

Domangue v. Eastern Airlines, Inc.

542 F. Supp. 643 (E.D. La. 1982) · No. Civ. A. No. 75-3006-EJB · Decided June 17, 1982

SUMMARY

The court determined damages arising from the wrongful death of Barry Domangue in the crash of Eastern Airlines Flight 66. Applying stipulated Louisiana law to the Federal Tort Claims Act claim against the United States, the court awarded damages for loss of love and affection, loss of support, and funeral expenses, while addressing the Warsaw Convention and Montreal Agreement limitation applicable to Eastern Airlines. The opinion also considers whether prejudgment and post-judgment interest could be recovered beyond the \$75,000 liability limit.

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
WRITING FOR THE COURT	Edward J. Boyle, Sr.
JURISDICTION	Louisiana
DECIDED	June 17, 1982
DOCKET	Civ. A. No. 75-3006-EJB
DISPOSITION	other
PROCEDURAL POSTURE	Following the United States' stipulation of liability under the Federal Tort Claims Act and Eastern Airlines' confession of judgment for the \$75,000 maximum permitted under the Warsaw Convention as supplemented by the Montreal Agreement, the court conducted a bench trial limited to the amount and components of damages recoverable against the United States and related interest issues.
STANDARD OF REVIEW	The court, sitting as the trier of fact in a bench trial, exercised sound judicial discretion in assessing wrongful-death damages and reviewed the evidence for reasonable compensation under applicable Louisiana law. The court also applied an abuse-of-discretion framework in discussing the selection of gross or net income for lost-support calculations.
PRECEDENTIAL VALUE	Published federal district court memorandum opinion; persuasive authority within the district and nonbinding authority elsewhere.

PARTIES

Mrs. Evelyn H. Domangue, individually and on behalf of her minor children v. Eastern Airlines, Inc., United States of America

TOPICS

wrongful death damages torts remedies

PRACTICE AREAS

torts wrongful death damages federal tort claims aviation law

QUESTIONS PRESENTED

1. What damages were recoverable under Louisiana wrongful-death law for loss of love, affection, companionship, grief, mental anguish, loss of support, and funeral expenses?
2. How should past and future loss of support be calculated when the decedent's future employment and earnings are uncertain?
3. Whether prejudgment or post-judgment interest could be recovered against Eastern Airlines in addition to the \$75,000 liability limitation under the Warsaw Convention as supplemented by the Montreal Agreement.
4. Whether prejudgment and post-judgment interest and costs could be awarded against the United States under the Federal Tort Claims Act.

HOLDINGS

1. Louisiana wrongful-death damages may include loss of love, affection, companionship, grief and mental anguish, loss of personal services, loss of past and future support, funeral expenses, and medical expenses, but the plaintiff could not recover for loss of personal services or medical expenses because she made no such claim and presented no supporting evidence.
2. Loss of love and affection, companionship, grief, and mental anguish are evaluated according to the particular facts and circumstances of the case, and the trier of fact has broad discretion in fixing the amount of general damages.
3. Loss-of-support damages are inherently speculative and need not be calculated with mathematical certainty; the court may use sound judicial discretion after considering the decedent's work record, earnings, work-life expectancy, personal consumption, taxes, and the duration of each claimant's entitlement.
4. Prejudgment and post-judgment interest are elements of damages and are included within the \$75,000 liability limitation applicable to Eastern Airlines; therefore, the plaintiff could not recover interest against Eastern in addition to that limitation.
5. The Federal Tort Claims Act precludes prejudgment interest against the United States, but permits post-judgment interest and allows a prevailing plaintiff to recover costs as provided by law.

KEY QUOTATIONS

“Similar awards made in other cases do not stand as a scale of uniformity but serve as aides to determine whether the trial court has abused its discretion.” (647)

“The settled law in Louisiana is that damages for loss of support are speculative in nature and cannot be calculated with mathematical certainty.” (648)

“Pre-judgment and post-judgment interest are a measure of damages, and the clear intent of Article 22 is to limit recoverable damages to \$75,000.00.” (653)

“Interest is an element of damages and, thus, is meant to be included in the \$75,000.00 limit.” (654)

FACTUAL BACKGROUND

Barry Domangue died in the June 24, 1975 crash of Eastern Airlines Flight 66. He was twenty-nine years old, had worked steadily since 1970, and supported his wife and two minor children through his employment as an offshore anchor operator. The court found that the family had a close and loving relationship, that the children were entitled to support through minority, and that the evidence did not establish that Barry would have continued working overseas for the remainder of his work-life expectancy.

PROCEDURAL HISTORY

The action arose from the crash of Eastern Flight 66. The United States stipulated liability while the case was pending in the Eastern District of New York. After the case returned to the Eastern District of Louisiana for determination of damages, Eastern Airlines confessed judgment for \$75,000 and deposited that amount in the court registry. The court determined the damages recoverable against the United States and ruled that interest could not be recovered against Eastern above the treaty limitation.

DISPOSITION

other

CASES CITED

- Ferrero v. United States, 603 F.2d 510, 512 (5th Cir. 1979)
- Simpson v. United States, 322 F.2d 688, 690 (5th Cir. 1963)
- Roundtree v. Technical Welding and Fabrication Co., Inc., 364 So. 2d 1325, 1330, 1334-1335 (La. App. 4th Cir. 1978)
- Blancher v. Samuels, 354 So. 2d 213, 223 (La. App. 4th Cir. 1977), writs denied, 355 So. 2d 257, 263 (La. 1978)
- Andrus v. White, 236 La. 28, 106 So. 2d 705, 706-707 (1959)
- Diefenderfer v. Louisiana Farm Bureau Mutual Insurance Co., 383 So. 2d 1032, 1036 (La. App. 1st Cir. 1980)
- Croce v. Bromley Corp., 623 F.2d 1084, 1094-1096 (5th Cir. 1980)
- Coco v. Richland General Contractors, Inc., 411 So. 2d 1260, 1262-1264 (La. App. 3d Cir. 1982)
- Dyson v. Gulf Modular Corp., 345 So. 2d 1222, 1225 (La. App. 1st Cir. 1977)

- Riley v. Frantz, 253 So. 2d 237, 241 (La. App. 4th Cir. 1971)
- Profit v. Linn, 346 So. 2d 253, 256 (La. App. 1st Cir. 1977)
- Boswell v. Roy O. Martin Lumber Co., 363 So. 2d 506, 507 (La. 1978)
- Reck v. Stevens, 373 So. 2d 498, 500-501 (La. 1979)
- Miller v. Thomas, 246 So. 2d 16, 19, 258 La. 285 (1971)
- Viator v. Gilbert, 253 La. 81, 216 So. 2d 821, 822-823 (1968)
- McFarland v. Illinois Central Railroad Co., 241 La. 15, 127 So. 2d 183, 187 (1961)
- Johnson v. International Insurance Co., 347 So. 2d 1279, 1282-1283 (La. App. 1st Cir. 1977)
- Cheatham v. City of New Orleans, 378 So. 2d 369, 379 (La. 1979)
- Mizell v. State, Through Louisiana Department of Highways, 398 So. 2d 1136, 1143-1144 (La. App. 1st Cir. 1981)
- Cardwell v. Jefferson Rental Division, 379 So. 2d 255, 264 (La. App. 4th Cir. 1976)
- Reeves v. Louisiana & Arkansas Railway Co., 304 So. 2d 370, 376-377 (La. App. 1st Cir. 1974)
- Hawthorne v. Southeastern Fidelity Insurance Co., 387 So. 2d 26, 31-32 (La. App. 3d Cir. 1980)
- Hardie v. Pylant, 375 So. 2d 189, 195-196 (La. App. 2d Cir. 1979)
- Edwards v. Sims, 294 So. 2d 611, 616-617 (La. App. 4th Cir. 1974)
- Fenasci v. Travelers Insurance Co., 642 F.2d 986, 989 (5th Cir. 1981)
- Olinde v. State, 391 So. 2d 1243, 1248 (La. App. 1st Cir. 1980)
- Board of County Commissioners v. Aerolineas Peruanas, S.A., 307 F.2d 802, 806-807 (5th Cir. 1962)
- Reed v. Wiser, 555 F.2d 1079, 1089 (2d Cir. 1977), cert. denied, 434 U.S. 922 (1977)
- National Airlines, Inc. v. Stiles, 268 F.2d 400, 405 (5th Cir. 1959), cert. denied, 361 U.S. 885 (1959)
- Caldarera v. Eastern Airlines, Inc., 529 F. Supp. 634 (W.D. La. 1982)