

## **Nru. 166**

18. 11. 2002

### **MALTA**

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**KAMRA TAD-DEPUTATI**

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**HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Ligi mressaq mill-Onorevoli Ninu Zammit, M.P., Ministru għall-Agricoltura u Sajd, f'isem il-Ministru tal-Ġustizzja u Gvern Lokali, u moqri għall-Ewwel darba fis-Seduta tat-18 ta' Novembru, 2002.

A BILL introduced by the Honourable Ninu Zammit, M.P., Minister for Agriculture and Fisheries on behalf of the Minister of Justice and Local Government, and read the First time at the Sitting of the 18th November, 2002.

**ATT biex jemenda l-Kodiċi Ċivili, Kap. 16.**

**AN ACT to amend the Civil Code, Cap. 16.**

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**RICHARD J. CAUCHI**  
*Skrivan tal-Kamra tad-Deputati*

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**RICHARD J. CAUCHI**  
*Clerk of the House of Representatives*

## ABBOZZ TA' LIĠI msejjaħ-

*ATT biex jemenda l-Kodiċi Ċivili, Kap. 16*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2002 li jemenda l-Kodiċi Ċivili. Dan l-Att għandu jinqara u jiftiehem haġa waħda mal-Kodiċi Ċivili, hawnhekk iżjed 'il quddiem imsejjaħ "il-Kodiċi", u għandu jibda jseħh f'dik id-data li l-Ministru responsabbli għall-ġustizzja jista' b'avviż fil-Gazzetta jistabbilixxi.

Titolu fil-qosor u  
bidu fis-seħh.

Kap. 16.

2. Minflok is-subartikolu (2) ta' l-artikolu 1045 tal-Kodiċi għandu jidhol dan li ġej:

Emenda  
ta' l-artikolu 1045  
tal-Kodiċi.

"(2) Is-somma li għandha tingħata dwar inkapaċità għal dejjem għandha fil-każ ta' inkapaċità għal dejjem totali tiġi stabbilita skond regolamenti li jsiru skond l-artikolu 1046A ta' dan il-Kodiċi.

(3) Meta l-inkapaċità għal dejjem ma tkunx waħda totali, is-somma li għandha tingħata għandha tkun dik il-perċentwali mis-somma li tirriżulta skond is-subartikolu (2) bħalma jkun jikkorrispondi għall-inkapaċità involuta skond regolamenti li jsiru skond l-artikolu 1046A ta' dan il-Kodiċi.

(4) Is-somma totali li għandha tithallas lil persuna għar-riġward ta' diżabilità għal dejjem totali ma għandhiex tkun iżjed minn mitejn u hamsin elf lira jew dik is-somma oghla li l-Ministru

responsabbli għall-gustizzja bi ftehim mal-Ministru responsabbli għall-finanzi jista' b'avviż minn żmien għal żmien jistabbilixxi.”.

Sostituzzjoni  
ta' l-artikolu 1046  
tal-Kodiċi.

3. Minflok l-artikolu 1046 tal-Kodiċi, għandhom jidhlu dawn l-artikoli 1046 and 1046A godda li ġejjin:-

“Danni meta  
tirriżulta  
l-mewt.

1046. (1) Meta minhabba fl-att li jikkaguna d-danni tirriżulta l-mewt, il-qorti tista', b'żieda mat-telf u spejjeż attwali ikkagunati lill-mejjet li jistgħu jithallsu lill-werrieta tal-mejjet, tagħti lid-dipendenti tal-mejjet u lill-eqreb qraba tiegħu danni li jiġu stabbiliti skond ma hemm ipprovdut f'dawn is-subartikoli ta' dan l-artikolu li ġejjin, u l-werrieta tal-mejjet ma għandu jkollhom ebda pretensjoni għal danni bbazati fuq it-telf ta' qligħ li tbat i l quddiem dovut lill-mejjet.

(2) Għall-finijiet ta' dan l-artikolu persuna dipendenti tkun il-konjuġi, dixxendent jew axxendent tal-mejjet u l-aħwa subien u bniet tal-mejjet li fil-waqt tal-mewt tal-persuna mejta kienu qegħdin jiġu mantnuti mill-persuna li tkun giet kagunata l-mewt tagħha. Is-somma totali li għandha tingħata lid-dipendenti kollha taht dan is-subartikolu ma għandhiex tkun iżjed mis-somma li kieku kienet tithallas lill-mejjet li kieku ma mietx imma jkun baqa' haj b'diżabilità għal dejjem totali wara li jitnaqqsu tletin fil-mija b'korrispettiv għal dak li l-mejjet kien ikuin jehtieg għall-ghajxien tiegħu. Meta tkun qed tistabbilixxi dik is-somma, il-qorti għandha tqis l-ammont ta' manteniment li l-persuna mejta kien ikollha thallas li kieku baqgħet hajja kif ukoll iż-żmien li warajh il-persuna dipendenti kienet tkun kapaċi tmanjni lilha nnifisha u ma tibqax dipendenti fuq manteniment ġej mill-mejjet. Meta fil-waqt tal-mewt persuna msemija f'dan is-subartikolu ma tkunx qed tircievi manteniment imma jkun wisq probabbli illi li kieku l-mejjet kien baqa' haj dik il-persuna kienet fil-futur tehtieg manteniment mingħand il-mejjet, il-qorti għandha tagħti d-danni skond dan.

(3) Għall-finijiet ta' dan l-artikolu qarib mill-eqreb tal-mejjet huwa konjuġi, dixxendent, axxendent, jew hu jew oħt tal-mejjet li jkun qiegħed jgħix fl-istess dar mal-mejjet. L-ammont totali ta' danni li jista' jingħata taht dan is-subartikolu ikun ta' għoxrin elf lira jew dik is-somma oghla li l-Ministru responsabbli għall-gustizzja bi ftehim mal-Ministru responsabbli għall-finanzi jista' b'avviż minn żmien għal żmien jistabbilixxi. Meta iktar minn persuna wahda jagħmlu talba jew ikunu jistgħu jagħmlu talba taht dan is-subartikolu, il-qorti għandha tistabbilixxi l-ammont li għandu jithallas li kull tali persuna abbażi ta' l-uġigħ u t-tbatija

kagunati lill-persuna li jkollha pretensjoni u tal-qrubija relattiva ta' dik il-persuna mal-mejjet u tista' taghti dawk id-danni lil xi wahda jew aktar minn dawk il-persuni b'esklużjoni ta' l-ohrajn kollha.

Sergha ta'  
għemil  
ta'  
regolamenti.

1046A. Il-Ministru responsabbli għall-gustizzja jista' jagħmel regolamenti għall-fini ta' l-artikolu 1045 u 1046 u jista' b'dawk ir-regolamenti jistabbilixxi regoli li għandhom jitqiesu mill-qrati biex jiġu stabbiliti d-danni dovuti għal telf ta' qligħ li tbat i l-quddiem fil-każ ta' inkapaċità jew mewt, u jista' b'mod partikolari b'dawk ir-regoli:

(a) jistabbilixxi l-qligħ jew il-qligħ potenzjali li għandhom jittieħdu bħala bażi kif jiġu kkalkulati dawk id-danni;

(b) jistabbilixxi il-formoli li għandhom jintużaw meta jkun qed isir il-kalkolu ta' dawk id-danni;

(ċ) jistabbilixxi l-fatturi li jitqiesu jew li jistgħu jitqiesu mill-qorti meta tiġi biex tikkalkola dawk id-danni, wara li jiġu kkunsidrati l-istorja ta' l-impjeg jew il-prospetti li l-vittma jkollha qabel l-aċċident kif ukoll l-istat ta' saħtu f'dak il-waqt, il-potenzjal li jkollu għal tharriġ mill-ġdid u r-rijabilitazzjoni tiegħu u fatturi oħra simili u l-piż li għandu jingħata lil kull wieħed minn dawn;

(d) jistabbilixxi skala percentwali ta' inkapaċità parzjali għar-rigward ta' ferimenti partikolari mgarrba mill-vittma meta ma jkunx hemm inkapaċità totali;

(e) wara konsultazzjoni mal-Bord tar-Regoli mwaqqaf taht l-artikolu 29 tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, jistabbilixxi regoli ta' proċedura li jiżguraw li meta ssir pretensjoni minn persuna taht is-subartikolu (2) jew (3) ta' l-artikolu 1046, jista' jingħata avviż lil persuni oħra li jkollhom pretensjoni simili li toriġina mill-istess att u biex tingħata opportunità lil dawk il-persuni li jingħaqdu ma' l-attur fil-każ."

### Għanijiet u Raġunijiet

L-għan ta' l-Abbozz hu sabiex jintroduċi regoli godda u ta' iktar ekwità f'każijiet ta' danni li joriġinaw minn dizabilità u mewt.

**A BILL  
entitled**

*AN ACT to amend the Civil Code, Cap. 16*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

Short title and commencement.

Cap. 16.

1. The short title of this Act is the Civil Code (Amendment) Act, 2002. This Act shall be read and construed as one with the Civil Code, hereinafter referred to as "the Code", and shall come into force on such date as the Minister responsible for justice may by notice in the Gazette establish.

Amendment of article 1045 of the Code.

2. For subarticle (2) of article 1045 of the Code there shall be substituted the following:

"(2) The sum to be awarded in respect of permanent incapacity shall in the case of total permanent incapacity be assessed in accordance with regulations made in accordance with article 1046A of this Code.

(3) Where the permanent incapacity is not total, the sum to be awarded shall be such percentage of the sum arrived at in accordance with subarticle (2) as corresponds to the incapacity in question in accordance with regulations made in accordance with article 1046A of this Code.

(4) The total sum payable to a person in respect of total permanent disability shall not exceed two hundred and fifty thousand liri or such higher sum as the Minister for justice with the concurrence of the Minister responsible for finance may by notice from time to time establish."

3. For article 1046 of the Code, there shall be substituted the following new articles 1046 and 1046A

Substitution  
of article 1046  
of the Code.

"Damages  
where  
death  
ensues.

1046. (1) Where in consequence of the act giving rise to damages death ensues, the court may, in addition to any actual loss and expenses incurred by the deceased which may be payable to the heirs of the deceased, award to the dependants of the deceased and to his close relatives damages to be assessed as is provided in the following subarticles of this article, and the heirs of the deceased shall have no claim for damages based on the loss of future earnings of the deceased.

(2) For the purposes of this article a dependant is a spouse, descendant or ascendant of the deceased and the brothers and sisters of the deceased who at the time of the deceased person's death were being maintained by the person whose death has been caused. The total sum to be awarded to all dependants under this subarticle shall not exceed the sum that would have been payable to the deceased had he not died but remained alive with total permanent disability after deducting thirty percent in consideration of what the deceased person would have required for own consumption. In assessing such sum the court shall take into account the amount of maintenance that the deceased person would have been liable to pay had he remained alive as well as the time after which the dependant person would have been able to maintain himself and no longer be dependant on maintenance from the deceased. Where at the time of death any person referred to in this subarticle is not in receipt of maintenance but there is a strong likelihood that had the deceased remained alive such person would in the future require maintenance from the deceased, the court shall grant damages accordingly.

(3) For the purposes of this article a close relative of the deceased is a spouse, descendant, ascendant or a brother or sister of the deceased living in the same household of the deceased. The total amount of damages that may be awarded under this subarticle shall be twenty thousand liri or such higher sum as the Minister responsible for justice with the concurrence of the Minister responsible for finance may by notice from time to time establish. Where more than one persons claims or may claim under this subarticle, the court shall assess the sum payable to each such person on the basis of the pain and suffering caused to the person who has a claim

and of the relative closeness of such person to the deceased and may award such damages to one or more of such persons to the exclusion of all others.

Power to  
make  
regulations.

1046A The Minister responsible for Justice may make regulations for the purpose of article 1045 and 1046 and may by such regulations establish rules to be taken into consideration by the courts in establishing the damages due for loss earnings in case of incapacity or death, and may in particular by such rules:

(a) establish the earnings or potential earnings that are to be taken as a basis for computing such damages;

(b) establish the formulae that are to be used in computing such damages;

(c) establish the factors that are or may be taken into consideration by the court in computing such damages, taking into account the employment history or prospects of the victim before the accident as well as his state of health at the time, his potential for retraining and rehabilitation and other like factors and the weight to be given to each;

(d) establish a percentage scale of partial incapacity in respect of particular injuries suffered by the victim where total incapacity has not occurred;

(e) after consulting the Rule Making Board established under article 29 of the Code of Organization and Civil Procedure, to establish rules of procedures to ensure that where a claim is made by any person under subarticle (2) or (3) of article 1046, notice may be given to other persons having a similar claim arising out of the same act and to give an opportunity to such persons to join the plaintiff in the case.”.

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### Objects and Reasons

The object of the Bill is to introduce new more equitable rules in cases of damages arising from disability and death.