

To all Bureaux Members of the Green Card System

Our ref.: KO/S/95/2015

Warsaw, 21.07.2015

Re: Update on claims for bereavement in Poland

Dear Sirs,

We would like to refer to our correspondence sent to in December 2014 in which we informed you about new regulations regarding claims for bereavement and the extension of limitation periods on the Polish market as well as the decisions of the Supreme Court concerning a new interpretation of Polish Civil Code which enabled family members of deceased victims to claim appropriate compensation based on the violation of their personal rights.

In the meantime the situation developed and we are now ready to provide information on the practical impact of those regulations.

As expected many files of cases where victims died as a result of accidents in Poland as from 1997 have already been and are being reopened.

The claims for the bereavement of close family members are pursued against correspondents and our Bureau. The financial burden of those claims is considerable and due to inconsistent court decisions and unpredictable quantity of possible claims depending on the number of entitled family members it is difficult to assess precisely the reserves.

The risk of an incorrect appraisal of compensation for family members is especially important in out of court handling as it usually results with a litigation.

The Bureau is exclusively competent to deal with the trials in Poland and - according to our experience with the in-court settlement of those claims - there may be distinguished several regions of the country where the court awards are especially high. Still the decisions in individual matters taken by judges of the same court may differ considerably. The amount of compensation for bereavement has not been fixed by law and there are no binding Supreme Court guidelines as to the amounts which should be awarded. In each case the final amount is at the discretion of the judge.

Our general observation is that sometimes the amounts of compensations for the bereavement offered by the correspondents differ substantially from the level of court awards. The discrepancies run to even several hundred percent.

Our priority as the defendant in court trials in this situation is to mitigate costs. That is why in some cases we do not enter into evidence procedure and try to terminate the trial as soon as possible, preferably with in-court agreement. This usually allows to avoid late payment interest and save a certain percentage of legal fees.

An agreement is not always possible and in many cases we must decide whether it is reasonable to appeal against the verdict. It is well-established attitude of the Supreme Court and 2nd instance courts to accept the appeal only in case where the award in the 1st instance was manifestly excessive. We therefore file appeals where it is particularly justified as ineffective complaints generate additional legal costs and increase the interest.

Wherever it comes to our knowledge that the compensation paid by the correspondent is especially insufficient and the lawsuit has not yet been instituted by the claimant, we negotiate an out of court settlement.

We are aware that the developments on Polish market may be surprising for foreign insurers, not only due to the financial impact, but also because of the particular character of the cases, which concern new kind of claims, which arise in files closed years ago.

Therefore, we would like to ask you to forward this information to your members.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Mariusz W. Wichtowski', written in a cursive style.

Mariusz W. Wichtowski
Chairman