

ABSTRACT

The purpose of my thesis is to analyse legal regulations of damages in cases of medical malpractice. The reason for my research is the increasing number of the above - mentioned cases in Czech Republic as well as the fact, that the contemporary legal regulations seem to be unsatisfactory, in particular with regard to damages for pain and suffering.

The thesis is composed of seven chapters, each of them dealing with different aspects of damages in medical cases. Chapter One and Chapter Two are introductory and define basic terminology used in the thesis: Medical facility, medical staff, informed consent and lege artis performance.

Chapter Three examines liability according to the Czech Civile Code in the general way, regarding to it's functions.

Chapter Four is focused on the liability in cases of medical care and attempts to zoom in the characteristic features of such cases. The chapter is subdivided into four parts and provides an outline of relevant Czech regulations of liability. Whereas part one is introductory, part two targets an obligation to prevent damage. Part three describes general liability according to the provision of § 420 of Czech Code Civile and provides an analysis of its particular presumptions such as (i) infringement of a legal duty, (ii) damage, (iii) causality and (iv) culpability. Part four investigates accountability in cases of medical care.

Chapter five looks at compensations in cases of medical care, above all examines principles of damages for pain and suffering and describes particular claims. This chapter lays stress on the regulation of damages for pain and suffering, because Czech Code Civile adverts to a legislative rule, which is based on a flat – rate poinwise evaluation and there are different approaches of courts to the application of this rule.

Chapter Six concentrates on problems resulting from affecting personality rights and Chapter Seven looks at possible future regulations.

Conclusions are drawn in Chapter Eight, that compares various approaches to the issue of this thesis. The main aim of the thesis is to explain the main priciples of damages in medical malpratice with regard to case studies.