

810.42 WRONGFUL DEATH DAMAGES - IN GENERAL.<sup>1</sup>

*(For medical malpractice cases filed on or after 1 October 2011, use N.C.P.I. -Civil 809.142.)*

Actual damages are the fair compensation to be awarded to the estate for the death of (*name deceased*) [proximately caused by the negligence] [caused by the wrongful conduct] of the defendant. Such damages may include:

[expenses for care, treatment and hospitalization incident to the injury resulting in death]<sup>2</sup>

[pain and suffering]<sup>3</sup>

[reasonable funeral expenses]<sup>4</sup>

[the present monetary value of (*name deceased*) to *his* next-of-kin].<sup>5</sup>

The total of all damages<sup>6</sup> are to be awarded in one lump sum.<sup>7</sup> I will now explain the law of damages as it relates to (each of) these.

---

1. *Bifurcation Note*: For actions commenced on or after 1 October 2011, N.C. R. Civ. P. 42(b)(3) specifies: "Upon motion of any party in an action in tort wherein the plaintiff seeks damages exceeding one hundred fifty thousand dollars (\$150,000), the court shall order *separate trials for the issue of liability and the issue of damages, unless the court for good cause shown orders a single trial. Evidence relating solely to compensatory damages shall not be admissible until the trier of fact has determined that the defendant is liable.* The same trier of fact that tries the issues relating to liability shall try the issues relating to damages."

2. N.C. Gen. Stat. § 28A-18-2(b)(1).

3. N.C. Gen. Stat. § 28A-18-2(b)(2).

4. N.C. Gen. Stat. § 28A-18-2(b)(3).

5. N.C. Gen. Stat. § 28A-18-2(b)(4).

N.C.P.I.-Civil. 810.42  
WRONGFUL DEATH DAMAGES - IN GENERAL.  
GENERAL CIVIL VOLUME  
JUNE 2012  
-----

---

6. In addition, punitive damages may be awarded for wrongful death of the deceased through the malice or willful or wanton conduct of the defendant as defined at N.C. Gen. Stat. § 1D-5. N.C. Gen. Stat. § 28A-18-2(b)(5). Punitive damages issues should be submitted separately, however. See *Jones v. McCaskill*, 99 N.C. App. 764, 394 S.E.2d 254 (1990).

7. *Kendrick v. Cain*, 272 N.C. 719, 159 S.E.2d 33 (1968).