

810.46 WRONGFUL DEATH DAMAGES - PAIN AND SUFFERING.

Damages for (*name deceased's*) death also include fair compensation for the actual physical pain and mental suffering<sup>1</sup> experienced by (*name deceased*) between the time of *his* injury and the time of *his* death. You may consider:

[the nature, extent and degree of the injury(ies) sustained by (*name deceased*)<sup>2</sup>]

[the length of time (*name deceased*) lived and was conscious<sup>3</sup> of *his* pain and suffering]

[*state any other factor supported by the evidence*].

There is no fixed formula for valuing physical pain and mental suffering. You will determine what is fair compensation by applying logic and common sense to the evidence.

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1. N.C. Gen. Stat. § 28A-18-2(b)(2).

2. If reasonably established, a recovery may be had for pain and suffering to a fetus. *DiDonato v. Wortman*, 320 N.C. 423, 358 S.E.2d 489, *rehearing denied*, 320 N.C. 799, 361 S.E.2d 73 (1987).

3. *Livingston v. United States*, 817 F.Supp. 601 (E.D.N.C. 1993).