

106.46 WRONGFUL DEATH DAMAGES - PAIN AND SUFFERING.

Damages for (*name deceased's*) death also include fair compensation for the actual physical pain and mental suffering¹ 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*)²]

[the length of time (*name deceased*) lived and was conscious³ 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.

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).