

Rule 223.3. Conduct of the Trial. Actions for Bodily Injury or Death. Jury Instructions on Noneconomic Loss

In any action for bodily injury or death in which a plaintiff has raised a claim for a damage award for noneconomic loss, the court shall give the following instructions to the jury.

The plaintiff has made a claim for a damage award for past and for future noneconomic loss. There are four items that make up a damage award for noneconomic loss, both past and future: (1) pain and suffering; (2) embarrassment and humiliation; (3) loss of ability to enjoy the pleasures of life; and (4) disfigurement.

The first item to be considered in the plaintiff's claims for damage awards for past noneconomic loss and for future noneconomic loss is pain and suffering. You are instructed that plaintiff is entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress that you find (he) (she) has endured from the time of the injury until today and that plaintiff is also entitled to be fairly and adequately compensated for all physical pain, mental anguish, discomfort, inconvenience, and distress you find (he) (she) will endure in the future as a result of (his) (her) injuries.

The second item that goes to make up noneconomic loss is embarrassment and humiliation. Plaintiff is entitled to be fairly and adequately compensated for such embarrassment and humiliation as you believe (he) (she) has endured and will continue to endure in the future as a result of (his) (her) injuries.

The third item is loss of enjoyment of life. Plaintiff is entitled to be fairly and adequately compensated for the loss of (his) (her) ability to enjoy any of the pleasures of life as a result of the injuries from the time of the injuries until today and to be fairly and adequately compensated for the loss of (his) (her) ability to enjoy any of the pleasures of life in the future as a result of (his) (her) injuries.

The fourth and final item is disfigurement. The disfigurement that plaintiff has sustained is a separate item of damages recognized by the law. Therefore, in addition to any sums you award for pain and suffering, for embarrassment and humiliation, and for loss of enjoyment of life, the plaintiff is entitled to be fairly and adequately compensated for the disfigurement (he) (she) has suffered from the time of the injury to the present and that (he) (she) will continue to suffer during the future duration of (his) (her) life.

In considering plaintiff's claims for damage awards for past and future noneconomic loss, you will consider the following factors: (1) the age of the plaintiff; (2) the severity of the injuries; (3) whether the injuries are temporary or permanent; (4) the extent to which the injuries affect the ability of the plaintiff to perform basic activities of daily living and other activities in which the plaintiff previously engaged; (5) the duration and nature of medical treatment; (6) the duration and extent of the physical pain and mental anguish which the plaintiff has experienced in the past and will experience in the future; (7) the health and physical condition of the plaintiff prior to the injuries; and (8) in case of disfigurement, the nature of the disfigurement and the consequences for the plaintiff.

NOTE: These instructions may be modified by agreement of the parties or by the court, based on circumstances of the case.