

Abstract

The topic of this dissertation is deductions for economic benefits in the calculation of claims for compensation. Traditionally, this issue has been discussed in connection with the rule concerning *compensatio lucri cum damno*. This is a general rule of the law of compensatory damages in tort stating that benefits that the injured party obtains as a result of the liability-causing offence shall under certain circumstances result in a deduction in the claim for compensation. This topic is analysed in connection with damage to property and breach of contract, but legal material from other areas, e.g. positive regulation from personal injury law, has been drawn in where this can help clarify, instruct and provide support to the discussions.

After a general introduction and delimitation of the scope of the issue (part I), including the topic's historical development, the topic of deduction of benefits is related to general calculation rules, i.e. replacement claims, expense claims and net loss claims respectively (part II). The topic is also discussed in relation to some more special calculation rules for contractual matters. The analysis shows that usual calculation rules cover the most practical benefits that the injured party usually receives in a situation involving damages or breach of contract. Therefore, there is not a need for an extensive rule for deductions. The analysis also shows that usual calculation rules may affect the evaluation in accordance with the rule of deduction concerning *compensatio lucri cum damno*. If you are first allowed to claim the costs of rebuilding a house that has burnt down, for example, you may essentially not accept deductions that prevent the reasonable and qualified re-establishment objective that the compensation is intended to maintain. Furthermore, for types of cases that are closely related to the benefits that lead without further ado to deductions according to general calculation rules, there will also be a certain presumption for deductions according to the *compensatio* rule. For example, it will have to be up to the injured party to demonstrate special grounds for not making a deduction for saved expenses in the relevant case because saved expenses are *normally* an item that results in deductions according to the normal calculation rules. Part II closes with an attempt to distinguish

between calculation rules and rules concerning deduction of benefits (chapter 11). Here a distinction is made between benefits that *are to be* attributed to the calculation rules and benefits that *ought to be* considered under these sets of rules.

The preceding parts of the dissertation provide the background for part III, where the specific rules concerning deduction of benefits are discussed in greater detail. Chapter 13 gives an account of a systematic division into three parts, and the rest of the presentation follows this organisation. Chapter 14 discusses benefits provided by a third party, whereas chapter 15 discusses deductions for benefits that injured parties have obtained themselves through "over-fulfilment" of the obligation to limit loss. Chapter 16 discusses the remaining types of cases that will be the actual area of application for the rule concerning *compensatio lucri cum damno*. The discussions are based on traditional requirements that there shall be an adequate cause and effect relationship between the benefit and the basis for liability, that the benefit is relevant to compensation and that any deduction must be reasonable. The analyses show that the delimitation of the cause and effect relationship cannot be automatically based on the adequacy criterion that derives from the delimitation of the consequences of the damage, but that a separate adequacy criterion for benefits ought to be specified. For the discussion of the requirement that the benefit is relevant to compensation and the deduction is reasonable, an attempt has been made to identify and develop some further evaluation topics and aspects that can provide guidance as to when deductions for benefits shall be accepted. The basis for the specification of the evaluation topics and aspects that has been made is primarily the pattern of argumentation and evaluation in Supreme Court case law, but also basic features of benefits that would otherwise be covered in the settlement of claims according to related sets of rules (reviewed in previous chapters), typically that the benefit will then be closely related to the loss.