

## **A Study on the Determination of Bereavement Compensation**

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### **Abstract**

The assessment of damages and compensation solatium has always been a crucial issue faced by courts across different countries. After all, quantifying the mental anguish of the victims is a challenging task. Therefore, what amount of compensation should the court award to be deemed appropriate? Which approaches should the court adopt to ensure consistency in determining compensation and prevent significant disparities in awards for similar cases across various courts? Furthermore, what factors should the court consider when determining compensation? How should the court articulate its reasoning in the judgment to provide a comprehensive justification? These are all significant challenges in practice.

This study centers on the evaluation of bereavement compensation (Germany: Hinterbliebenengeld; Switzerland: Angehörigengenguttung; Austria: Trauerschmerzensgeld) for surviving family members, particularly in the determination of compensation for damages. The research material will be drawn from the rulings of higher courts in our country over the past five years. Additionally, the author will examine the practical approaches used by advanced countries like Germany, Switzerland, and Italy, where bereavement compensation is recognized. The analysis will include an observation of their determination methods, factors considered during the determination process, and the absolute amounts awarded in each respective country. Ultimately, the author will assess whether there are any potential areas for improvement in our country's practices of determining bereavement compensation.

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Based on this research, the study intends to address the following issues, and proposing reform plans and observations with the aim of contributing to practical improvements in legal practices of Taiwan: 1. How to establish an easily applicable method of determination; 2. How to reform the recording method of judgment reasons, which has been criticized for being overly vague; 3. Whether the factors considered by Taiwanese courts in determining bereavement compensation are appropriate; 4. Whether the bereavement compensation awarded by Taiwanese courts is comparatively low.

**Keywords: Bereavement Compensation, non-economic damages, Nervous Shock, Milan Scale, Rom Scale**