

RAJI – Personal Injury Damages No. 3

Damages for Wrongful Death of Spouse, Parent or Child

If you find [*name of defendant*] liable to [*name of plaintiff*], you must then decide the full amount of money that will reasonably and fairly compensate [*name of each survivor*] [separately] for each of the following elements of damages proved by the evidence to have resulted from the death of [*name of decedent*].

1. The loss of love, affection, companionship, care, protection, and guidance since the death and in the future.
2. The pain, grief, sorrow, anguish, stress, shock, and mental suffering already experienced, and reasonably probable to be experienced in the future.
3. The income and services that have already been lost as a result of the death, and that are reasonably probable to be lost in the future.
4. The reasonable expenses of funeral and burial.
5. The reasonable expenses of necessary medical care and services for the injury that resulted in the death.

SOURCE: A.R.S. § 12-613; *City of Tucson v. Wondergem*, 105 Ariz. 429, 432-34 (1970); *Jeffery v. United States*, 381 F. Supp. 505, 510 (Ariz. 1974); *Salinas v. Kahn*, 2 Ariz. App. 181, 193-95 (1965).

See also White v. Greater Ariz. Bicycling Ass'n, 216 Ariz. 133, 136 (App. 2007) *See also Mullen v. Posada Del Sol Health Care Ctr.*, 169 Ariz. 399, 400 (App. 1991). ***Walsh v. Advanced Cardiac Specialists Chartered*, 229 Ariz. 193, 196 (2012).**

USE NOTES:

Depending on the evidence in the case, some of the elements in paragraphs 1 and 2 may be inapplicable or cumulative, and the elements listed in paragraphs 3, 4, and 5 may be inapplicable. Customize the instruction to fit the case.

Mitigating and Aggravating Circumstances:

A.R.S. § 12-613 provides: “In an action for wrongful death, the jury shall give such damages as it deems fair and just with reference to the injury resulting from the death to the surviving parties who may be entitled to recover, and also having regard to the mitigating and aggravating circumstances attending to the wrongful act, neglect or default.” In *Boies v. Cole*, 99 Ariz. 198, 204 (1965), the Arizona Supreme Court held that the use of the words “aggravating circumstances” in § 12-613 was intended to allow punitive damages in wrongful death actions. *See also Welch v. McClure*, 123 Ariz. 161, 163 (1979).

The Court in *Boies v. Cole* also held, “Mitigating circumstances can only apply where there have been such aggravating circumstances as to justify an award of punitive damages and may only be shown to mitigate the amount of such punitive damages.” 99 Ariz. at 205.

In 2025, the Committee examined whether the phrase “mitigating or aggravating circumstances” should be included in Personal Injury Damages 3. In light of the Due Process issues raised by the imposition of damages intended to punish a defendant, the Committee decided that the issue of “aggravating circumstances” is best covered by Personal Injury Damages 4 when warranted by the facts of the case.