Road Traffic Act

(Straßenverkehrsgesetz)

(Section 7-20)


II. Liability

Section 7

Liability of vehicle holder (Fahrzeughalter), unauthorised use of a vehicle

(1) If, during the operation of a motor vehicle or a trailer intended for use with a motor vehicle, a person suffers death, the body or health of a person is injured or an item of property is damaged, the vehicle holder has an obligation to pay compensation to the injured person for the resulting damage.

(2) This obligation to pay compensation is excluded if the accident was caused by force majeure.

(3) If anyone uses the vehicle without the knowledge and permission of the vehicle holder, he has an obligation to pay compensation for the damage instead of the vehicle holder; in addition, if the use of the vehicle was possible due to the fault of the vehicle holder, the vehicle holder has an obligation to pay compensation for the damage. The first sentence does not apply if the vehicle user is employed by the holder for the operation of the motor vehicle or if the vehicle was made available to him by the holder. Sentences 1 and 2 apply to the use of a trailer mutatis mutandis.

Section 8

Exceptions

The provisions of Section 7 do not apply

1. if the accident was caused by a motor vehicle that cannot drive on a level surface at a speed of more than 20 kilometres per hour, or by a trailer attached to such a vehicle at the time of the accident,

2. if the injured party was active in the operation of the motor vehicle or the trailer or

3. if damage is caused to an item of property that was being transported by the motor vehicle or the trailer, unless a transported person was wearing or carrying the item.

Section 8a

Transportation of passengers for payment, prohibition of exclusion of liability
In the case of the commercial transportation of passengers for payment, the holder’s liability to pay damages under Section 7 if passengers are killed or injured may not be excluded or limited. The commercial nature of passenger transport is not excluded by the fact that the transport is operated by a corporation or institution under public law.

Section 9
Contributory negligence
If the fault on the part of the injured person contributes to the occurrence of the damage, the provisions of Section 254 of the [German] Civil Code (Bürgerliches Gesetzbuch) apply with the proviso that, in the case of damage to an item of property, the fault of the person who has actual control over the item is deemed to be equal to the fault of the injured person.

Section 10
Extent of liability for damages in case of death
(1) In the case of death, compensation shall be made by reimbursing the costs of an attempted cure as well as the costs incurred by the pecuniary prejudice sustained by the deceased party as a result of the suspension or reduction of his earning capacity or the resultant increase in his needs for the duration of the illness. The party liable to pay damages shall furthermore reimburse the funeral costs to the party who is responsible for defraying these expenses.
(2) If at the time of the injury, the deceased party maintained a relationship with a third party by virtue of which he was or was liable to come under the legal obligation to support this third party and if the third party was deprived of the right to maintenance as a result of the death, the party liable to pay damages shall indemnify the third party, guaranteeing maintenance to the extent to which the deceased party would have been liable for the length of lifespan he would probably have had. Liability for damages shall also be enforced if, at the time of injury, the third party had been conceived but not yet born.
(3) The party liable to pay damages shall make appropriate financial compensation to the surviving dependent who at the time of the injury was in a particularly close personal relationship with the deceased party for the emotional distress caused to the surviving dependent. A particularly close personal relationship shall be assumed when the surviving dependent was the spouse, the life partner, a parent or a child of the deceased party.

Section 11
Extent of liability for damages in case of bodily injury
In the case of injury to a person’s body or damage to his health, compensation shall be made by reimbursing the costs of the cure as well as the costs incurred by the pecuniary prejudice sustained by the injured party as a result of the temporary or permanent suspension or reduction of his earning capacity or the resultant increase in his needs.
Reasonable financial compensation can also be claimed when the damage is not of a pecuniary nature.

Section 12
Maximum amounts of compensation
(1) The party liable to pay damages shall be liable
1. only up to a maximum total amount of five million euro in the case of the death or injury of one or several persons as a result of the same event; only up to a maximum total amount of ten million euro in the case of the damage being caused on account of the use of a highly or fully automated driving function in accordance with Section 1a; in the case of the commercial transportation of passengers for payment, the liability of the holder of the transporting motor vehicle or trailer to pay damages shall increase when more than eight passengers were killed or injured by 600,000 euro for each additional passenger who was killed or injured;
2. only up to a maximum total amount of one million euro in the case of damage to property, even when several items of property were damaged by the same event; in the case of the damage being caused on account of the use of a highly or fully automated driving function in accordance with Section 1a, only up to a maximum total amount of two million euro.

The maximum amounts under the first sentence no. 1 shall also apply to the capital value of an annuity to be paid as damages.

(2) Should the combined indemnification to be paid to several injured parties on account of the same event exceed the maximum amounts specified in paragraph 1, then the individual compensation shall be reduced pro-rata to the maximum total given.

Section 12a
Maximum amounts in the case of the carriage of dangerous goods

(1) In such case as dangerous goods are transported, the party liable to pay damages shall be liable

1. in the case of the death or injury of one or several persons by the same event only up to a total amount of ten million euro,

2. in the case of damage to immovable property, even if a number of items of property are damaged by the same event, only up to a total amount of ten million euro, insofar as the damage is caused by qualities resulting from the dangerous nature of the goods carried. In all other respects, Section 12 (1) shall remain unaffected.

(2) Dangerous goods within the meaning of this Act are substances and articles the road carriage of which is prohibited or authorised only under certain conditions prescribed under Annexes A and B of the respective valid version of the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957 (ADR) (Federal Law Gazette 1969 II p. 1489).

(3) Paragraph 1 does not apply to the exempted carriage of dangerous goods or the carriage of limited quantities below the limits designated in subsection 1.1.3.6. of the Agreement specified in paragraph 2.

(4) Paragraph 1 is not applicable if the damage took place during carriage within a plant in which dangerous goods are manufactured, treated, processed, stored, used or destroyed, insofar as the carriage takes place on confined premises.

(5) Section 12 (2) shall apply mutatis mutandis.

Section 12b
Non-applicability of maximum amounts

Sections 12 and 12a are not applicable if damage is caused during the operation of an armoured track vehicle.

Section 13
Compensation in the form of annuities

(1) Compensation on account of the suspension or reduction of earning capacity and on account of increased need on the part of the injured party, as well as the compensation to be afforded a third party pursuant to Section 10 (2) shall be paid in the future by means of an annuity.

(2) The provisions of Section 843 (2) to (4) of the German Civil Code shall apply mutatis mutandis.

(3) If no requirement for posting security was imposed at the time the liable party was found liable for the payment of an annuity, the person entitled to the compensation may nevertheless demand the posting of security if the financial circumstances of the liable party have considerably worsened; under the same circumstances, he may demand an increase of the security established in the judgment.
Section 14
Limitation
The limitation provisions of the German Civil Code applying to torts shall apply to limitation, mutatis mutandis.

Section 15
Forfeiture of claims
1 A person entitled to damages loses the rights to which he is entitled on the basis of the provisions of this Act if he does not notify the person liable to pay damages of the accident within two months of becoming aware of the damage and the identity of the person liable to pay damages. 2 A loss of rights does not occur if the notification is not made on account of a circumstance for which the person entitled to damages is not responsible or the person liable to pay damages became aware of the accident in another way within the designated period.

Section 16
Other laws
The Federal provisions according to which the vehicle holder is liable for the damage caused by the vehicle to a greater extent than under the provisions of this Act or according to which another party is responsible shall remain unaffected.

Section 17
Damage caused by a number of motor vehicles
(1) If damage is caused by a number of motor vehicles and the vehicle holders involved are obliged by law to compensate a third party for the damage, the obligation to pay compensation and the extent of the compensation to be paid depend on the circumstances in the relationship of the vehicle holders to each other, particularly on the extent to which the damage was caused mainly by one or another of the parties.
(2) If the damage is sustained by one of the vehicle holders involved, paragraph 1 shall also apply to the vehicle holders’ liability towards one another.
(3) 1 The liability to pay compensation pursuant to paragraphs 1 and 2 is excluded if the accident is caused by an unavoidable event that is neither due to a defect in the condition of the vehicle nor to a malfunction of its equipment. 2 An event shall only be deemed to be unavoidable if both the holder and the driver of the vehicle have observed all due diligence according to the circumstances of the case. 3 The exclusion shall also apply to the liability to pay compensation to the owner of a motor vehicle who is not the vehicle holder.
(4) If the damage is caused by a motor vehicle and a trailer, by a motor vehicle and an animal or by a motor vehicle and a railway, the provisions of paragraphs 1 to 3 shall be applicable mutatis mutandis.

Section 18
Extent of the vehicle driver’s liability for damages
(1) 1 In cases under Section 7 (1), the driver of the motor vehicle or the trailer is also liable to compensate for the damage under the provisions of Sections 8 to 15. 2 The liability for damages is excluded if the damage was not caused by a fault on the part of the driver.
(2) The provision of Section 16 shall apply mutatis mutandis.
(3) If in the cases provided for by Section 17, the driver of the motor vehicle or the trailer is also liable to compensate for the damage, the provisions of Section 17 shall be applied, mutatis mutandis, to this liability in his relationship to the vehicle holders and drivers of the other vehicles involved, to the holders and drivers of the other trailers involved, to the animal owners or railway companies.

Section 19
(deleted)

Section 20
Territorial jurisdiction
The court in the district of which the damaging event took place shall also be responsible for suits filed on the basis of this Act.