

40-3117. Tort actions; conditions precedent to recovery of damages for pain and suffering. In any action for tort brought against the owner, operator or occupant of a motor vehicle or against any person legally responsible for the acts or omissions of such owner, operator or occupant, a plaintiff may recover damages in tort for pain, suffering, mental anguish, inconvenience and other non-pecuniary loss because of injury only in the event the injury requires medical treatment of a kind described in this act as medical benefits, having a reasonable value of \$2,000 or more, or the injury consists in whole or in part of permanent disfigurement, a fracture to a weightbearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of a bodily function or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed in compliance with the requirements of this section upon a showing that the medical treatment received has an equivalent value of at least \$2,000. Any person receiving ordinary and necessary services, normally performed by a nurse, from a relative or a member of such person's household shall be entitled to include the reasonable value of such services in meeting the requirements of this section. For the purpose of this section, the charges actually made for medical treatment expenses shall not be conclusive as to their reasonable value. Evidence that the reasonable value thereof was an amount different from the amount actually charged shall be admissible in all actions to which this subsection applies.

History: L. 1974, ch. 193, § 17; L. 1987, ch. 173, § 7; Jan. 1, 1988.