

Consequences of the accident at the Glória Furnicular. Quid iuris?

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The tragedy that occurred earlier this month with the Lisbon Furnicular (in Portuguese, Elevador da Glória), in Lisbon, brought to light relevant legal issues that go beyond the emotional and media impact of the accident. The analysis of the case involves assessing multiple dimensions of civil liability and its transfer to insurance companies, as well as the practical implementation of the legal regime applicable to compensation for damages suffered.

According to the preliminary report by the Office for the Prevention and Investigation of Aircraft and Railway Accidents, the cause of the accident may be related to technical faults in the traction and braking systems. At this early stage of the investigation, and without prejudice to any criminal or political liability, it is important to focus the analysis on civil liability (whether subjective or objective) and the risk transfer instruments involved, namely compulsory insurance for public passenger transport.

In Portugal, under the terms of the law, the operation of public transport services requires civil liability insurance contracts to cover damage caused to passengers, with minimum amounts set by law.

In this specific case, according to information disclosed, the company operating the funicular railway has a policy with the insurer Fidelidade, with capital sums exceeding the legal minimum requirements.

Civil liability insurance aims to guarantee compensation for damages arising from accidents occurring during the provision of the service, namely in the event of death, bodily injury or other damage to the physical and psychological integrity of passengers. Compensation will vary depending on the specific situation of each injured party. In the case of fatalities, in addition to compensation for the right to life — with amounts that, according to the most recent case law, range from €100,000 to €150,000 — it will be important to consider non-pecuniary damages for the perception of death, damages suffered by the heirs and any pecuniary damages, such as loss of income in the household.

Concerning injured people, compensation will essentially depend on the degree of permanent disability resulting from those injuries. These amounts include compensation for pecuniary damages (loss of income, medical expenses, adaptation of housing or vehicle, third-party assistance) and non-pecuniary damages (physical and psychological pain, aesthetic damage, limitation of quality of life, damage to personal affirmation, among others).

It is also important to consider the added complexity of applying the compensation regime when victims of different nationalities are involved, as is the case here. Differences between legal systems can introduce significant variables into the calculation of compensation, especially if insurance policies taken out in the victims' countries of origin are involved, such as workplace accident insurance, travel insurance or personal protection policies. The compatibility between legal systems requires rigorous analysis, which may give rise to concurrent claims and simultaneous compensation in different jurisdictions.

We are now entering the phase in which the injured parties and the victims' families begin to gather documentation, prepare compensation claims and contact insurance companies directly. They will also be called upon to participate in the investigation procedures, to make statements and, eventually, to negotiate compensation amounts - a process that is not only legal but also deeply human.

In this context, the actions of institutions - whether public or private - have implications that go beyond compliance with legal obligations: it is also a matter of ensuring predictability, transparency and respect for the victims' dignity. The provision of clear information, technical and logistical support to victims, consular assistance in the case of foreign citizens and speed in the regularization process are essential elements for the legal system to fulfil its duty.

The Glória Funicular tragedy is an example of how insurance law, in combination with general principles of law and, specifically, civil liability, is called upon to respond to situations of great complexity and social impact. Compensation is necessary, but doing so fairly, quickly and transparently is the true test for the system.