Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Articles

Studia Iuridica Lublinensia vol. XXIX, 4, 2020
DOI: 10.17951/sil.2020.29.4.279-306

Małgorzata Sekuła-Leleno
Lazarski University, Poland
ORCID: 0000-0001-5015-9018
astcms@sn.pl

The Scope of Adjudication in Cases of Pecuniary Compensation for the Harm Suffered – Comments in Light of the Resolution of the Supreme Court of 11 April 2019 (III CZP 105/18, BSN 2019, no. 4, p. 8)

Zakres orzekania w sprawach o zadośćuczynienie pieniężne za doznaną krzywdę – uwagi na tle uchwały Sądu Najwyższego z dnia 11 kwietnia 2019 r. (III CZP 105/18, BSN 2019, nr 4, s. 8)

SUMMARY

The purpose of this study is to analyze legal issues related to the scope of adjudication in cases of pecuniary compensation for the harm suffered, especially in a situation in which the party objected that the injured party contributed to the damage, and in a situation in which the claim submitted in the lawsuit was of a lower amount than the potentially "adequate compensation". The principle of *ne eat iudex ultra petita partium* means that the court may decide only on what is claimed submitted by the party requesting legal protection. The scope of the requested legal protection thus sets the boundaries of the subject of the decision. At the same time, the assumption that there should be complete agreement between the subject of the proceedings and the subject of the ruling, i.e. what covers the subject of the decision, should be considered correct. As a result, it must be recognized that there are a close relationship and interdependence between limiting the court with what is claimed and the subject matter of the dispute. In determining the claim, the plaintiff thus sets the boundaries of the subject of the dispute, and limiting the court with what is claimed is tantamount to limiting the subject of the dispute.

Keywords: non-pecuniary damage; injured party's contribution; subject of adjudication; prohibition of adjudication over a demand

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

INTRODUCTION

Hypothesis: The court, supporting the statement that the injured party contributed to the damage, considers the plaintiff's claim and accordingly seeks to reduce the awarded compensation; however, it is obliged to consider the limitation of the claim because of it, as indicated in the factual basis of the claim.

The purpose of this study is to analyze legal issues related to the scope of adjudication in cases of pecuniary compensation for the harm suffered, especially in a situation in which the party objected that the injured party contributed to the damage, and in a situation in which the claim submitted in the lawsuit was of a lower amount than the potentially "adequate compensation".

The reason for considering the above is the resolution of the Supreme Court of 11 April 2019, in which the Supreme Court, in response to the dubiety expressed by of the Court of Appeal in Warsaw[1], stated that "the Court, supporting the statement that the injured party contributed to the damage, considers the claim and diminishes the awarded compensation accordingly; however, simultaneously it is obliged to consider the limitation of the claim because of the same reason, as indicated in the actual basis of the claim".

The essence of the issue, therefore, concerns resolving the dilemma that arises at the intersection of the substantive law provisions (Article 446 § 4 of the Civil Code) and the procedural law provisions that indicates the need to specify the claim and providing the facts for its justification in the lawsuit (Article 187 §§ 1 and 2 of the Code of Civil Procedure) and prohibiting judgements that consider the party that was not included in the claim and ordering compensation that is more than the claimed one (Article 321 § 1 of the Code of Civil Procedure). When presenting the legal issue, the Court of Appeal indicated that there is a discrepancy in the case law, namely whether the court, when awarding compensation of an adequate amount under Article 362 of the Civil Code, is limited by the amount of the claim requested by the party in the lawsuit, or can independently determine the amount of compensation, which in its opinion is the appropriate amount, and subsequently reduce this amount pursuant to Article 362 of the Civil Code; the amount indicated in the claim then constitutes only the upper limit of the claim, which may be considered when deciding the case.

[1] The resolution was adopted as part of the decision regarding the legal issue presented by the Court of Appeal in Warsaw in the resolution of 25 October 2018, V ACa 1364/17, whose content was to determine the following: "In a situation in which the court reduces the amount of compensation as sought by the plaintiff, considering that the injured party contributed to the damage caused to them, is the reduction made in relation to the amount demanded by the plaintiff, or in relation to the sum that the court considers appropriate within the meaning of Article 446 § 4 of the Civil Code, regardless of the fact that the sum is higher than the claimed one?".

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

The District Court took a position in this case by stating that, considering the scope of Article 362 of the Civil Code, when reducing the amount of compensation due to the plaintiffs, the court is not limited by the amount requested in the claim, and therefore it can order an adequate amount of compensation, including a larger amount, as pursuant to Article 446 § 4 of the Civil Code. The rationale for the judgement contains no argument in this regard.

In judicature, on the one hand, it is assumed that making a settlement based on the assumption that the due redress is higher than the sought one does not mean awarding above what is claimed. On the other hand, courts assume that the subject of examination and settlement is determined only by the submitted claim and the factual circumstances considered for its justification; thus, the decision on reducing the compensation considering the statement of contributing to the occurrence or increase of damage may occur only in relation to the amount covered by the claim, unless the factual basis of the brought action indicates that this circumstance has already been considered.

On the basis of the above-mentioned provisions, different interpretations arise, which often, especially in the court practice, relate to the estimation of non-pecuniary damage in the form of negative psychological experiences or moral damage, which are difficult to determine and evaluate, including those related to the analysis of the facts of the case, and the degree to which the defendant and the injured party have contributed to the damage.

THE SCOPE OF THE REGULATION OF ARTICLE 362 OF THE CIVIL CODE

The provision of Article 362 of the Civil Code, which is in the general provisions of the third volume of the Civil Code on obligations, concerns the generally defined "obligation to redress damage". Neither does it differentiate the legal basis from which this obligation arises, nor the party for whom this obligation is to be fulfilled. The decisions of the Supreme Court uniformly assume that the contribution to the damage of the directly injured party that died justifies the reduction of the benefits provided in Article 446 §§ 3 and 4 of the Civil Code, which are due to persons related to this injured party[2]. Article 362 of the Civil Code applies to any

[2] Cf., i.a., judgements of the Supreme Court of: 7 December 1985, IV CR 398/85, unpublished; 6 March 1997, II UKN 20/97, OSNP 1997, no. 23, item 478; 19 November 2008, III CSK 154/08; 12 July 2012, I CSK 660/11, unpublished. See also P. Jóźwiak, *Zmniejszenie odszkodowania w razie przyczynienia się zmarłego wskutek czynu niedozwolonego*, „Państwo i Prawo" 2011, no. 12, p. 80; P. Granecki, *W sprawie wykładni art. 362 kodeksu cywilnego*, „Państwo i Prawo" 2003, no. 1, p. 68; A. Szpunar, *Przyczynienie się do powstania szkody w wypadku komunikacyjnym*, „Rejent" 2001, no. 6, p. 13.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

standard causal relationship, whether direct or indirect, which is the cause of harm on the part of directly or indirectly injured party[3].

In the case law of the Supreme Court, there is no doubt that the behaviour of the injured party that is a minor, who cannot be legally responsible due to their age (Article 426 of the Civil Code), may justify a reduction in the due compensation from the person liable for the damage based on the principle of risk[4], as pursuant to Article 362 of the Civil Code.

The so-called the causal concept of contributing, which is prevailing in the case law, can be referred to any case in which the typical consequence of an act or omission of the injured party was the occurrence of damage[5].

It is indicated that "The specific characteristic of the benefit, which is monetary compensation for the harm suffered, does not allow to apply mechanically the provision of Article 362 of the Civil Code on an adequate reduction of the amount of compensation because of the injured party's contribution"[6].

In the light of Article 362 of the Civil Code, the injured party's contribution is only a condition for their moderation, once all the circumstances of the case are considered, and in particular the degree of contribution of both parties[7].

An issue that raises doubts is the answer to the question whether the statement of the injured party's contributing to the occurrence or increase of the damage obliges the court to reduce the due compensation.

According to one view, determining the contribution is only a necessary condition to consider the possibility of reducing compensation, but it is insufficient for its reduction because whether and to what extent the compensation should be reduced depends on the court's decision in the course of the judicial assessment of compensation within the framework that is set out in Article 362 of the Civil Code

[3] Judgement of the Supreme Court of 12 September 2013, IV CSK 87/13.

[4] Cf. the resolutions of seven judges of the Supreme Court of: 11 January 1960, I CO 44/59, OSNCK 1960, no. 4, item 92; 20 September 1975, III CZP 8/75, OSNCP 1976, no. 7–8, item 151 – the legal principle. Cf. judgements of the Supreme Court of: 20 January 1970, II CR 624/69, OSNC 1970, no. 9, item 163; 1 March 1985, I CR 27/85, OSPiKA 1989, no. 5, item 115; 18 March 1997, I CKU 25/97, unpublished; 3 August 2006, IV CSK 118/06, unpublished; 29 October 2008, IV CSK 228/08, OSNC-ZD 2009, no. 3, item 66; 5 November 2008, I CSK 139/08, unpublished; 19 March 2014, I CSK 295/13, OSNC 2015, no. 3, item 34; 5 June 5 2014, IV CSK 588/13, unpublished; 29 September 2016, V CSK 717/15, unpublished; 22 November 2017, IV CSK 8/17, unpublished.

[5] Cf. judgements of the Supreme Court of: 29 October 2008, IV CSK 228/08, OSNC-ZD 2009, no. 3, item 66; 5 November 2008, I CSK 139/08, unpublished; 19 November 2009, IV CSK 241/09, unpublished; 19 March 2014, I CSK 295/13, OSNC 2015, no. 3, item 34; 11 September 2014, III CSK 248/13, unpublished; 26 February 2015, III CSK 187/14, OSNC-ZD 2016, no. 3, item 41; 2 March 2016, V CSK 399/15, unpublished; 29 September 2016, V CSK 717/15, unpublished; 7 March 2017, II CSK 438/16, unpublished; 14 July 2017, II CSK 820/16, unpublished.

[6] Judgement of the Supreme Court of 28 July 1970, I CR 304/70, LEX no. 6766.

[7] Cf., i.a., judgements of the Supreme Court of: 3 August 2006, IV CSK 118/06, unpublished; 29 October 2008, IV CSK 243/08, unpublished; 19 November 2009, IV CSK 241/09, unpublished.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

as a result of a specific and individualized decision, that is taken in consideration of the circumstances of the given case. The decision to reduce compensation is the court's prerogative, and considering the circumstances *in casu* as a result of a specific and individualized assessment is its responsibility[8].

The opposite view assumes that if it is established that the injured party contributed to the occurrence or increase of damage, the court – according to Article 362 of the Civil Code – considering the circumstances, including the degree of contribution of both parties, should reduce the compensation accordingly[9].

The Supreme Court in the justification of the resolution, referring to the structure of the contribution, pointed out that "The extent of the due compensation (redress) is influenced by both the act and the omission of the injured party, while each time it is necessary to consider their contribution to the harm and the degree of contribution, as well as the burden and manner of violation of the applicable rules of proceedings. There must always be an adequate causal relationship between the behaviour of the injured person and the harm they suffered". It was emphasized, referring to the current position of the judicature, that "the contribution of the injured party to the harm admittedly requires the application of Article 362 of the Civil Code, but it does not automatically prejudge the reduction in compensation or the degree of

[8] See judgements of the Supreme Court of: 29 October 2008, IV CSK 228/08, OSNC-ZD 2009, no. 3, item 66; 19 November 2009, IV CSK 241/09, unpublished. Cf. judgements of the Supreme Court of: 3 August 2006, IV CSK 118/06, unpublished; 29 October 2008, IV CSK 243/08, unpublished; 17 June 2009, IV CSK 84/09, unpublished; 12 July 2012, I CSK 660/11, unpublished; 19 March 2014, I CSK 295/13, OSNC 2015, no. 3, item 34; 27 April 2016, II CSK 518/15, OSP 2017, no. 1, item 2; 29 September 2016, V CSK 717/15, unpublished; 19 January 2017, II CSK 195/16, unpublished; 7 March 2017, II CSK 438/16, unpublished; 14 July 2017, II CSK 820/16, unpublished; 22 November 2017, IV CSK 8/17, unpublished; 14 June 2017, IV CSK 104/17, OSNC 2018, no. 3, item 35. In the case law, there are also different, minor views as to the reasons for classifying the act or omission of the injured party as contributory (cf. e.g. judgements of the Supreme Court of: 3 August 2006, IV CSK 118/06, unpublished; 22 November 2017, IV CSK 8/17, unpublished), as well as the obligation to reduce compensation (redress) once its occurrence is established (cf. e.g. judgements of the Supreme Court of: 7 May 2010, III CSK 229/09, unpublished; 26 February 2015, III CSK 187/14, OSNC-ZD 2016, no. 3, item 41).

[9] Judgements of the Supreme Court of: 10 February 1971, I PR 106/70, unpublished; 7 May 2010, III CSK 229/09, unpublished; 26 February 2015, III CSK 187/14, OSNC-ZD 2016, no. 3, item 41. In the earlier case law, the Supreme Court was in favour of the obligatory reduction of compensation in judgements of: 10 February 1971, I PR 106/70, unpublished; 7 May 2010, III CSK 229/09, unpublished. Cf. judgements of the Supreme Court of: 26 February 2015, III CSK 187/14, OSNC-ZD 2016, no. 3, item 41; 13 June 2018, IV CSK 276/17, unpublished. Cf. K. Zagrobelny, [in:] *Kodeks cywilny. Komentarz*, eds. E. Gniewek, P. Machnikowski, Legalis 2016, Nb 13; Z. Banaszczyk, [in:] *Kodeks cywilny. Komentarz*, ed. K. Pietrzykowski, vol. 1, Legalis 2015, Nb 10; A. Olejniczak, [in:] *Kodeks cywilny. Komentarz*, ed. A. Kidyba, vol. 2, part 1, Legalis 2014, Nb 4 (where the latter two authors accurately point out that the injured party's fault determines the obligation to reduce compensation by the court). See also A. Koch, [in:] *Kodeks cywilny*, vol. 1: *Komentarz do art. 1–352*, ed. Gutowski, Legalis 2018, Nb 26.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

such reduction"[10]. It was clearly stated that "in the case in which such a statement was made, the court, stating the cause, must make an individualized assessment of all circumstances in terms of the need and the extent of reduction of the due compensation". It was accurately pointed out that "there is no equals sign between the degree of contribution and the extent of the compensation reduction; however, it cannot be ruled out that, in the specific circumstances of the case, compensation reduction will be made to the same extent as it occurred"[11].

THE CONCEPT OF "APPROPRIATE SUM" IN ARTICLE 445 § 1 OF THE CIVIL CODE IN RELATION TO ARTICLE 446 § 4 OF THE CIVIL CODE

The amendment to the Civil Code, made by the Act of 30 May 2008 on amending the Act – Civil Code and some other acts[12], which entered into force on 3 August 2008, changed the current classification of measures for the protection of relatives, indirectly injured parties, by a provision that establishes directly the possibility of granting compensation to the close relatives of the deceased injured party. This provision is a fulfilment of the postulates that have been formulated for a long time, indicating the need to protect injured parties in the event of the death of a close relative[13].

A claim for monetary compensation cannot, however, be regarded as a means that will automatically be considered legitimate in any situation in which the directly injured party has died. In the case of this new regulation, the legislator uses the optional form, clearly indicating that the court "may". The justification for granting compensation will, therefore, in any case, depend on the assessment by

[10] Cf. judgements of the Supreme Court of: 29 September 2016, V CSK 717/15, unpublished; 16 March 2018, IV CSK 114/17, OSNC-ZD 2019, no. 1, item 13.

[11] Cf. judgements of the Supreme Court of: 29 October 2008, IV CSK 243/08, unpublished; 26 February 2015, III CSK 187/14, OSNC-ZD 2016, no. 3, item 41; 14 June 2017, IV CSK 104/17, OSNC 2018, no. 3, item 35; 13 June 2018, IV CSK 276/17, unpublished.

[12] Journal of Laws no. 116, item 731. On the development of redress institutions, see K. Kryla, *Zadośćuczynienie pieniężne dla najbliższych członków rodziny zmarłego – uwagi na tle art. 446 § 4 k.c.*, „Przegląd Sądowy" 2013, no. 2, p. 64.

[13] The introduction of § 4 to Article 446 of the Civil Code meant a return to the regulation in Article 166 of the Code of Obligations, which states that in the event of the death of the injured party as a result of physical injury or causing a health disorder entitles the court to award an appropriate sum of monetary compensation for moral harm. This legislative introduction ("reactivation") of this right in Article 446 § 4 of the Civil Code constituted a normative response to the demands directed by doctrine and case law referring to the legislator; this case law previously had no legal basis to award appropriate compensation for moral harm, if it was not associated with a deterioration of the material life situation, which is a necessary condition for granting adequate compensation under Article 446 § 3 of the Civil Code.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

the court considering the circumstances. This does not mean, however, that the legislator's position may lead to arbitrariness of court decisions and unlimited freedom in awarding monetary compensation. Courts should comply with clear and, where possible, harmonized criteria for assessing similar situations[14]. The Supreme Court, in the rationale for its resolution, stated that "The starting point must be the constructions of substantive law that are applicable in the case". With regard to compensation and the injured party's contribution, the legislator introduced specific solutions providing courts with some decision-making freedom (so-called judicial law), which is normatively expressed by the reference to the concept of "suitability" as a judicial directive in the scope of determining the amount of compensation (Article 446 § 4 of the Civil Code) and determining the consequences of the injured party's contribution (Article 362 of the Civil Code).

The award of redress is under independent judicial assessment, which does not mean, however, that this assessment is without restrictions. Only in exceptional cases (e.g. due to the insignificance of the harm suffered), the court may refuse to award any compensation[15].

It is undoubtedly necessary to make an objective assessment of the claims and to be objective when determining criteria and awarding adequate amounts of compensation. The determination of the amount of compensation for damage (Article 446 § 4 of the Civil Code) should be made considering all circumstances[16]. Both the circumstances affecting the amount of compensation and the measures of their assessment must be considered individually for the specific injured party. Any comparison with other cases and an automatical reference to the evaluation of the harm done in these case will fail, even when the cases involve similar injuries and personal situations. The sums awarded as compensation in similar cases can only provide indicative guidelines, preventing in this way the formation of apparent disproportions; however, they do not constitute an additional criterion for the measure[17].

Thus, it was left to the discretion of the court to decide whether in a particular case of a breach of personal rights compensation should be awarded and in what

---

[14] M. Safjan, *Komentarz do art. 446*, [in:] *Komentarz do k.c.*, ed. K. Pietrzykowski, Legalis 2018, Nb 37. See also the interpretation of the phrase "court may" in the light of Article 448 of the Civil Code, the judgement of the Constitutional Tribunal of 7 February 2005, SK 49/03, OTK-A 2005, no. 2, item 13.

[15] See judgements of the Supreme Court of: 27 August 1969, I PR 224/69, OSN 1970, no. 6, item 111; 23 January 1974, II CR 763/73, OSPiKA 1975, no. 7, item 171.

[16] The judgement of the Supreme Court of 27 June 2014 in case V CSK 445/13 expressed the view that the determination of the amount of compensation for damage (Article 446 § 4 of the Civil Code) should be made considering all circumstances. Both the circumstances affecting the amount of compensation and the measures of their assessment must be considered individually for the specific injured party.

[17] Judgement of the Supreme Court of 27 June 2014, V CSK 445/13

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

amount. The prerogative granted by law to the court in this respect does not mean that the court may decide without restrictions[18]. Therefore, if the statutory conditions justifying the claim for redress are met, the refusal to award it will have to be exceptional, when any particular circumstances that led to the non-material damage will be against such a decision[19].

THE SUBJECT OF ADJUDICATION – ARTICLE 321 OF THE CODE OF CIVIL PROCEDURE

According to Article 321 § 1 of the Code of Civil Procedure, the court may not decide on the subject that was not indicated in the claim or grant awards that are greater than the claimed ones[20].

The rule governing the settlement of cases in a civil action, expressed in the aforementioned provision, means that the scope of the decision is determined by the plaintiff's claim, and therefore the decision cannot involve the subject that was not indicated in the claim (*ne eat iudex ultra petita partium*).

Resulting from this provision the principle of the autonomy of the will of the parties, according to which parties may freely decide on their legal situation, and the principle of availability, according to which parties may freely use their rights and assert them in court or resign from seeking legal protection, are the guiding principles of the civil action, which stems from its very essence[21].

---

[18] Cf. judgements of the Supreme Court of: 17 January 2001, II KKN 351/99, Prok. i Pr. (supplement) 2001, no. 6, p. 11; 17 November 2016, IV CSK 15/16, Legalis; 8 March 2017, IV CSK 258/16, Legalis. Similarly, among others, judgement of the Court of Appeal in Lodz of 5 November 2014, I ACa 679/14, Legalis; judgement of the Court of Appeal in Wrocław of 6 May 2015, I ACa 245/15, Legalis; judgement of the Court of Appeal in Lublin of 11 June 2015, I ACa 57/15, Legalis.

[19] In the judgement of the Supreme Court of 23 February 2017 (I CSK 121/16, Legalis) it was emphasized that in relation to the compensation envisaged in Article 445 § 1 of the Civil Code, it is incorrect to use the judicial instrument *ius moderandi*, which is in Article 440 of the Civil Code.

[20] Cf. A. Jakubecki, *Komentarz do kodeksu postępowania cywilnego*, LEX/el. 2013; E. Gapska, J. Studzińska, *Postępowanie nieprocesowe*, Warszawa 2015; *Kodeks postępowania cywilnego. Komentarz*, ed. T. Ereciński, vol. 2, Warszawa 2012, pp. 38–41. Cf. judgements of the Supreme Court of: 15 October 2010, III UK 20/10, LEX no. 694242; 2 December 2011, III CSK 136/11, unpublished; 25 June 2015, V CSK 612/14, LEX No. 1771393.

[21] Cf. judgements of the Supreme Court of: 29 October 1993, I CRN 156/93, unpublished; 29 October 1999, I CKN 464/98, unpublished; 12 February 2002, I CKN 902/99, unpublished; 28 April 2005, III CK 571/04, unpublished; 24 May 2007, V CSK 25/07, OSNC-ZD 2008, no. B, item 32; 7 November 2007, II CSK 344/07, unpublished; 18 May 2010, III PK 74/09, unpublished; 3 February 2011, I CSK 261/10, unpublished; 2 December 2011, III CSK 136/11, unpublished; 9 December 2014, III CNP 36/13, OSNC-ZD 2016, no. 1, item 15. See H. Mądrzak, [in:] *Postępowanie cywilne*, ed. H. Mądrzak, Warszawa 2003, p. 57; K. Weitz, *Związanie sądu granicami żądania w procesie cywilnym*,

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

The prohibition of adjudication over a demand, which is a manifestation of the principles of availability and adversariality, means that the content of the judgement in both a positive and negative sense is determined by the party's claim. The court cannot impose anything other than what the plaintiff (*aliud*) has claimed, more than the plaintiff (*super*) has claimed, or on a different factual basis than the one indicated by the plaintiff[22]. It was correctly observed that the compatibility between the subject of the case and decision can be infringed in a reverse situation, that is when the court does not rule on the entire claim, i.e. the decision does not concern the entire subject of the claim. Indeed, it is permissible to consider a part of the claim (*minus*) with simultaneous rejection of the remainder of the motion[23].

In Article 321 § 1 of the Code of Civil Procedure there is a reference to the claim within the meaning of Article 187 § 1 of the Code of Civil Procedure. According to this provision, the obligatory content of each lawsuit constitutes a precisely specified claim and a reference to the factual circumstances justifying the claim[24]. Also, in the analyzed resolution, the Supreme Court emphasized that "the limits of the dispute are thus determined not only by the content of the claim (*petitum*), but also by the factual basis of the action (*causa petendi*) that is understood as the factual circumstances that are relied upon by the plaintiff to justify the decision of the specific content. The scope of the court's decision, both in the positive and negative sense, is determined by the 'claim' within the meaning of Article 321 § 1 of the Code of Civil Procedure, which should be related to both the content of the motion for adjudication and the facts that are referred to for its justification"[25].

[in:] *Aurea praxis, aurea theoria. Księga pamiątkowa ku czci Profesora Tadeusza Erecińskiego*, eds. J. Gudowski, T. Ereciński, vol. 1, Warszawa 2011, pp. 679–681.

[22] Judgements of the Supreme Court of: 24 January 1936, C II 1770/35, PPiA 1936, no. 2, item 148; 12 February 2002, I CKN 902/99, unpublished; 18 March 2005, II CK 556/04, OSNC 2006, no. 2, item 38 (with the gloss of E. Łętowska, „Państwo i Prawo" 2005, no. 10, p. 123 ff.). It is worth noting that this view was referred to even under Article 321 § 2 of the Code of Civil Procedure (formerly Article 329 § 2 of the Civil Code) (judgement of the Supreme Court of 14 July 1951, C 544/51, unpublished).

[23] See K. Weitz, *op. cit.*, p. 690; K. Markiewicz, *Komentarz do art. 321*, [in:] *Komentarz do kodeksu postępowania cywilnego*, ed. K. Piasecki, Legalis 2016, Nb 10–14.

[24] See judgements of the Supreme Court of: 24 January 1936, C II 1770/35, PPiA 1936, no. 2, item 148; 29 October 1993, I CRN 156/93, unpublished; 27 March 2000, III CKN 633/98, unpublished; 11 June 2003, V CKN 337/01, unpublished; 9 November 2004, IV CK 194/04, unpublished; 18 March 2005, II CK 556/04, OSNC 2006, no. 2, item 38; 2 December 2005, II CK 277/05, unpublished; 19 January 2006, IV CK 376/05, unpublished.

[25] Cf. judgements of the Supreme Court of: 24 May 1995, I CRN 61/95, unpublished; 28 April 1998, II CKN 712/97, OSNC 1998, no. 11, item 187; 23 February 1999, I CKN 252/98, OSNC 1999, no. 9, item 152; 18 March 2005, II CK 556/04, OSNC 2006, no. 2, item 38; 19 January 2006, IV CK 376/05, unpublished; 24 May 2007, V CSK 25/07, OSNC-ZD 2008, no. B, item 32; 29 October 2008, IV CSK 243/08, unpublished; 23 July 2015, I CSK 549/14, unpublished.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Being limited by the scope of the claim does not mean, however, that the court is absolutely limited by the wording of the claim. If the wording of the conclusion of the claim is unclear or inappropriate, the court may modify it; however, it must do so in accordance with the will of the plaintiff. The doctrine and jurisprudence agree that the plaintiff's claim may be subject, if necessary, to interpretation, which should aim to make a decision that considers the actual plaintiff's claim[26]. In the judgement of 28 June 2007[27], the Supreme Court accurately indicated that being limited by the scope of a claim does not mean that the adjudicating court is absolutely limited by the very wording of the claim. If the content of the claim is formulated incorrectly, unclearly or imprecisely, the court may, and even is obliged to, modify it accordingly; however, it must be done in accordance with the plaintiff's will and within the framework of the lawsuit to express their will in the claim in an appropriate juridical form[28].

A different approach to this issue would be a manifestation of unjustified formalism, which would lead to a distortion of the principle expressed in Article 321 § 1 of the Code of Civil Procedure[29].

Article 321 § 1 of the Code of Civil Procedure thus reflects the traditional rule of adjudication, which prohibits adjudicating beyond a claim, i.e. manifesting itself in the fact that the court is limited by the scope of the claim and cannot dispose of the subject of the proceedings by determining its limits regardless of the scope of the plaintiff's claim of protection. The court cannot award more than it is claimed, that is allowing claims greater than the one requested by the plaintiff, including the situations when the circumstances of the case show that the plaintiff is entitled to a larger benefit. It cannot be ruled on a subject that was not claimed, i.e. awarding something other than the party claimed. The claim for action defines not only its subject matter but also its factual basis[30]. A judgement granting an action based on facts, on which the plaintiff has neither based their claim in the lawsuit nor in the proceedings before the court of first instance, awards beyond the motion[31].

---

[26] Cf. judgements of the Supreme Court of: 24 May 1995, I CRN 61/95, unpublished; 19 January 2006, IV CK 376/05, unpublished.

[27] IV CSK 115/07, unpublished.

[28] Judgements of the Supreme Court of: 12 September 2014, I CSK 635/13, LEX no. 1521214; 26 May 1999, III CKN 243/98, unpublished.

[29] Judgement of the Supreme Court of 19 January 2006, IV CK 376/05, unpublished.

[30] Judgements of the Supreme Court of: 25 June 2015, V CSK 612/14, LEX no. 1771393; 23 July 2015, I CSK 549/14, unpublished.

[31] Cf. judgement of the Supreme Court of 24 January 1936, C II 1770/35, PPiA 1936, no. 2, item 148.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Consequently, in a situation in which the facts referred to by the plaintiff indicate that they are also entitled to another claim in addition to the main claim, the court cannot rule on this claim[32].

It has been indicated in the doctrine that the violation of the prohibition of Article 321 of the Code of Civil Procedure refers to two aspects: quantitative and qualitative. The former means that the court cannot decide on something more than the party claimed (*plus*, *maius* or *super*). Therefore, the decision concerning the quantitative level that goes beyond the given claim is excluded[33]. In turn, the second aspect of prohibition does not allow the court to decide on something other than the party claimed (*aliud*). In both aspects, it is a prohibition that works "in two directions", so if the court accepts the action and if it dismisses. The court cannot, therefore, grant or deny the party of something that is more or anything that is other than that the one that is claimed. In addition, it is pointed out that limiting the court by the scope of the claim means that the court cannot rule on anything that was not claimed[34].

The provision of Article 321 of the Code of Civil Procedure is closely linked to Article 187 of the Code of Civil Procedure, which defines the basic elements of the action, which bind the court if it is not modified by the plaintiff[35].

The Supreme Court accurately pointed out in the resolution, referred to at the beginning of this work, that "By limiting the court with the scope of the claim

---

[32] See judgements of the Supreme Court of: 29 October 1993, I CRN 156/93, unpublished; 29 October 1999, I CKN 464/98, unpublished; 12 February 2002, I CKN 902/99, unpublished; 28 April 2005, III CK 571/04, unpublished; 24 May 2007, V CSK 25/07, OSNC-ZD 2008, no. B, item 32; 7 November 2007, II CSK 344/07, MoP 2007, no. 24, p. 1339; 18 May 2010, III PK 74/09, unpublished; 3 February 2011, I CSK 261/10, unpublished; 2 December 2011, III CSK 136/11, unpublished.

[33] W. Siedlecki, *Zasady orzekania oraz zasady zaskarżania orzeczeń w postępowaniu cywilnym w świetle orzecznictwa Sądu Najwyższego*, Warszawa 1982, p. 45; K. Piasecki, *Orzekanie ponad żądanie w procesie cywilnym*, Warszawa 1975, p. 166. It is worth noting that the institution of an unspecified claim is not known in the Polish law, so that the amount or quantity of the same type of goods identified by the plaintiff always sets the upper limit of the claim, which the court cannot exceed. This also applies to cases in which the court may award an appropriate amount according to its assessment (Article 322 of the Code of Civil Procedure). Cf. Kruszelnicki, *Kodeks postępowania cywilnego z komentarzem*, part 1, Poznań 1938, p. 435, Article 342, comment 9; K. Weitz, *op. cit.*, p. 700.

[34] K. Weitz, *op. cit.*, p. 698; Ś. Kruszelnicki, *op. cit.*, p. 434; L. Peiper, *Komentarz do kodeksu postępowania cywilnego i przepisów wprowadzających kodeks postępowania cywilnego wraz z ustawami i rozporządzeniami dodatkowymi, tudzież umowami międzynarodowymi*, vol. 1, Kraków 1934, pp. 718–719; K. Piasecki, *Postępowanie sporne rozpoznawcze*, Warszawa 2004, p. 387; J. Jodłowski, Z. Resich, J. Lapierre, T. Misiuk-Jodłowska, K. Weitz, *Postępowanie cywilne*, Warszawa 2002, p. 453; K. Piasecki, *Orzekanie ponad żądanie…*, chapter V; idem, [in:] *System prawa procesowego cywilnego*, vol. 2: *Postępowanie rozpoznawcze przed sądami pierwszej instancji*, eds. W. Berutowicz, Z. Resich, Wrocław 1987, pp. 280–293.

[35] Cf. judgements of the Supreme Court of: 8 September 2016, II CSK 170/15, LEX no. 2182659; 2 December 2011, III CSK 136/11, unpublished.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

allows to maintain the dispute within the legal protection sought by the plaintiff and functions an important guarantee and protection for the other party, ensuring them the right to be heard and adopt adequate defence".

When considering the context of limiting the court by the scope of the claim, one should also pay attention to the problematic issue of the contradiction between the content of the claim and its justification. In the literature on the subject, it has been pointed out that it is possible either to strictly apply the principle of *ne eat iudex ultra petita partium* and dismiss the claim, or to violate this principle and ignore the content of the claim by the court in a decision on the claim, regardless of the fact that the plaintiff did not request it, but which stems from the facts referred to by the plaintiff. Between these approaches, there is a solution which necessitates the court first attempts to obtain from the plaintiff the appropriate instructions or even a change of the claim (action); but if the plaintiff still insists on their claim, then the court issues a decision dismissing the action[36].

LIMITING THE COURT BY THE CONTENT OF THE CLAIM IN THE CONTEXT OF THE PROHIBITION OF ADJUDICATING MORE THAN IT IS CLAIMED – SELECTED DECISIONS

Limiting the court by the content of the claim in the context of the prohibition of adjudicating more than it is claimed is not new; however, from the perspective of the present legal issue, attention should be paid to the most significant judgements.

The first group concerns judgements in which the Supreme Court took the position that the prohibition of adjudicating more than it is claimed means that the court may not decide on the claim that has not been filed by the plaintiff, in particular, awarding an amount higher than that one requested in the claim, regardless of the fact that undoubtedly it would have been appropriate in the factual circumstances of the case.

In the judgement of 24 January 1936 (C II 1770/35), the Supreme Court took the position that granting the action on the factual basis, which the plaintiff neither in the claim nor in the proceedings before the court of first instance refers to in their claim, is an award higher than the claimed one. Also, in the judgement of 29 October 1999 (I CKN 464/98), the Supreme Court pointed out that the scope of the decision was determined by the scope of the claim. Even if the facts that the plaintiff refer to indicate that they are entitled to another claim in addition to the original one, the court is not allowed to decide on such a claim if it has not been submitted by the party.

[36] K. Weitz, *op. cit.*, p. 710.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Similarly, in the judgement of 12 February 2002 (I CKN 902/99) the Supreme Court ruled that the court could not grant something else or more to what was claimed by the plaintiff; neither the court cannot rule on a factual basis of the action other than the one indicated by the plaintiff. However, the court is not limited by the legal basis of the claim and may examine its appropriateness irrespective of whether the possibility of deciding on another substantive legal claim is excluded, as the result of the claim made by the plaintiff and the determination of this claim's factual basis[37]. The form of the claim regarding the award of a benefit will depend on the will of the party; therefore, the court cannot independently change the type of benefit claimed[38].

In subsequent decisions, it was emphasized that the limits of adjudication in accordance with Article 321 § 1 of the Code of Civil Procedure determines the value of claims, but also the subject matter of the claim, determined by its factual basis. In the event of a pecuniary claim, the award of a sum within the limits of the amount of the claim, but on a different factual basis than the one indicated by the plaintiff in the lawsuit and in the course of the proceedings, constitutes a judgement for more than it is claimed[39].

Provided that in Article 321 § 1 of the Code of Civil Procedure the limits of judgement have been determined, the court cannot rule on the subject not indicated in the party's claim and more than in the submitted claim[40]. The prohibition on adjudicating more than it is claimed in this provision reflects the rules of availability

[37] In the judgement of 25 October 1937 (C II 1174/37, Journal of Decisions 1938, item 334), the Supreme Court explained that considering an action on other legal grounds than those in the lawsuit, but based on the facts presented by the parties, does not violate Article 342 of the Code of Civil Procedure (currently: Article 321 § 1 of the Code of Civil Procedure). The Supreme Court then reiterated this view in the judgements of: 9 November 2004, IV CK 194/04, unpublished; 6 December 2006, IV CSK 269/06, unpublished; 12 January 2007, IV CSK 286/06, unpublished, emphasizing that the court is limited by the facts referred to justify the claim, and not by the legal basis of the claim indicated by the plaintiff.

[38] Judgements of the Supreme Court of: 23 July 2004, III CK 339/03, unpublished. Cf. judgements of the Supreme Court of: 23 July 2015, I CSK 549/14, unpublished; 23 June 2016, II PK 149/15; 12 October 2016, II CSK 14/16, LEX no. 2142552; 6 September 2017, I CNP 28/17, unpublished; decision of the Supreme Court of 7 December 2017, V CSK 110/17.

[39] Judgement of the Supreme Court of 18 March 2005, II CK 556/04. Also in the judgement of 7 November 2007 (II CSK 344/07), the Supreme Court stated that the limits of the claim were determined, among others, by the amount of claims being sought. It means that the court cannot award more than it is claimed, and therefore, allow the claim to be greater than the plaintiff claims, including when the circumstances of the case clearly indicate that the plaintiff is entitled to a larger benefit. See also: judgements of the Supreme Court of: 29 October 1993, I CRN 156/93, unpublished; 7 November 2007, II CSK 344/07, unpublished; 11 December 2008, II CSK 364/08; 21 October 2009, I PK 97/09.

[40] Judgement of the Supreme Court of 24 May 2007, V CSK 25/07, OSNC-ZD 2008, no. B, item 32.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

and adversariality. It means that the scope of the judgement, both in a positive and negative sense, is determined by the party's claim. The court may not award a benefit other than that requested by the plaintiff, nor may it award more than the plaintiff claimed, or on a factual basis other than that indicated by the plaintiff. This stance has been adopted in many judgements, in which the Supreme Court expressly emphasizes that in the compensation process, the court is not limited by the method of determining the damage indicated by the injured party, but only by the amount of compensation claimed and the facts that are referred to justify the claim[41]. The judgement of the Supreme Court of 10 November 2017[42] is in the same line. In this judgement, the Supreme Court also ruled that a manifestation of the principles of availability is, i.a., granting the party the right to freely use their procedural rights, including the determination of the scope of legal protection that is being sought. This term is also binding, which means that the court cannot rule on what the party did not claim or go beyond the claim, and thus decide on what the party has not presented in their lawsuit. Similarly, in the judgement of the Supreme Court of 6 September 2017[43], it was stated that "The rule of limiting the court with the scope of the claim (*ne eat iudex ultra petita partium*) that is established in Article 321 § 1 of the Code of Civil Procedure means that the court cannot decide on something more (*ultra*), anything other than the claim (*aliud*), and obviously without a formulated claim. The principle of the autonomy of the will of the parties, which results from this provision and according to which a person is free to determine their legal situation and the principle of availability, according to which the parties may freely use their rights and claim them in court or to resign from seeking legal protection, are the guiding principles of the civil action, having the source in its essence"[44].

The Supreme Court, therefore, indicates that Article 321 § 1 of the Code of Civil Procedure defines the limits of ruling in the lawsuit, in accordance with the basic principle of civil procedure, that is, only claims submitted by the parties can be considered by the court[45]. In the light of this regulation, the court is limited by the claim and its factual basis; however, it is not limited by the legal classification

[41] Judgements of the Supreme Court of: 7 December 2017, II CSK 87/17, LEX no. 2439117; 5 December 2008, III CSK 228/08.

[42] V CZ 73/17, LEX no. 2428820.

[43] I CNP 28/17, unpublished.

[44] Judgement of the Supreme Court of 28 July 2017, II CSK 685/16, LEX no. 2353042.

[45] Judgements of the Supreme Court of: 14 March 2017, II CSK 237/16, LEX No. 2334876; 12 October 2016, II CSK 14/16, LEX no. 2142552; and so is the judgement of the Supreme Court of 7 November 2007, II CSK 344/07, unpublished. Cf. judgement of the Supreme Court of 29 November 1949, Wa.C. 163/49, published […] 1950, no. 3, item 61. The judgement granting the claim on the factual basis, which the plaintiff neither in the claim nor in the proceedings before the court of first instance refer to in their claim, is an award above the claim. Cf. judgement of the Supreme Court of 7 November 2007, II CSK 344/07, unpublished.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

provided by the plaintiff. Limited by the claim it may not dispose of the subject of the lawsuit by determining its limits regardless of the scope of the claim for protection specified by the plaintiff[46]. The court adjudicates the entire subject matter of the dispute, as set out by the plaintiff, whereas the judgement whose scope is wider than the one of the claim is a judgement beyond the claim[47].

Many judgements of common courts can be mentioned here as well. In these judgements, it is clearly indicated that it is the plaintiff who decides about the scope of the claim before the court[48]. The inadmissibility of ruling on an object not covered by the claim means that it is impossible to rule on claims other than the one made by the plaintiff[49]. Therefore, the court cannot change the factual basis of the claim, because "by exceeding its limits and even considering the protection of a legitimate legal interest of the party, it becomes the party's advocate, depriving the pension authority the possibility of defending its adopted position"[50].

It is also emphasized that the court cannot award a claim in a higher amount than the one specified by the plaintiff, also when the circumstances of the case clearly indicate that the plaintiff is entitled to a larger benefit[51].

The second group of the Supreme Court's judgements indicates that no judgement can be made above the claim if the court clarifies the content of the claim – within the limits of the plaintiff's motivation, or only clarifies the defendant's specific conduct, regardless of the fact that it is not indicated directly in the lawsuit. In the judgement of 5 July 2018 (II PK 109/17), the Supreme Court pointed out that "If the factual basis of a claim is multifaceted, an in-depth legal analysis of the claim is required, as provided in Article 378 § 1 of the Code of Civil Procedure. At the same time, this analysis does not mean going beyond the boundaries specified in Article 321 § 1 of the Code of Civil Procedure, as it would not lead to adjudication more than it is claimed and its factual basis contained in the lawsuit"[52]. Therefore,

[46] Judgement of the Supreme Court of 23 July 2015, I CSK 549/14, unpublished.

[47] Judgement of the Supreme Court of 29 October 2008, IV CSK 243/08, unpublished.

[48] Judgement of the Court of Appeal in Szczecin of 24 November 2016, I ACa 427/16, LEX no. 2188828; judgement of the Court of Appeal in Lodz of 19 May 2016, I ACa 1356/15, LEX no. 2069281.

[49] See judgement of the Court of Appeal in Lublin of 24 June 2014, I ACa 155/14, LEX no. 1498954; judgement of the District Court in Suwałki of 26 March 2014, I CA 44/14, LEX no. 1682438.

[50] Judgement of the Court of Appeal in Szczecin of 5 November 2013, III AUa 384/13, LEX no. 1422420. See also judgement of the Court of Appeal in Szczecin of 8 May 2013, I ACa 1/13, LEX no. 1378841.

[51] Judgement of the Court of Appeal in Bialystok of 27 March 2013, I ACa 34/13, LEX no. 1307394; judgement of the Court of Appeal in Warsaw of 6 December 2012, I ACa 717/12, LEX no. 1299000; judgement of the Court of Appeal in Poznań of 21 April 2010, I ACa 267/10, LEX no. 628188.

[52] See also judgements of the Supreme Court of: 26 January 2017, II PK 333/15, LEX no. 2252200; 6 September 2017, I PK 262/16, LEX no. 2389579.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

in a situation of vague or even incorrect formulation of the claim, the court may modify it accordingly, in accordance with the will of the plaintiff and within the limits of the factual basis of the lawsuit. This does not preclude the court from specifying in the operative part of judgement within judicial activity the elements that result directly from the justification of the claim and which have been proved by the plaintiff, insofar as it is necessary for the correct construction of the judgement in a way enabling its execution[53]. Therefore, the clarification by the adjudicating court of the subject of the claim cannot be considered and treated as a manifestation of a violation of the prohibition of adjudicating beyond the claim[54].

This direction of the Supreme Court's judgements is also present in the case law of common courts, in which it is emphasized that the claim, from both the party and the subject perspective, should be determined in a way that there is no doubt as to what is the subject of the proceedings and against whom the plaintiff claims specific rights[55]. The prohibition of adjudication beyond the claim does not, therefore, mean that the court is strictly limited by the means of its determination. However, allowing the court to intervene in the event of an incorrect or imprecise determination of the claim, it is also pointed out that it cannot be too far-reaching and cannot change the nature of the claim[56].

The presented views point to a number of exceptions adopted in the jurisprudence practice from the general and essentially unquestioned rule of strictly limiting the court by the literal scope of the claim, which sets the limits of the prohibition of adjudication beyond the claim. The presented achievements of jurisprudence provide numerous examples of departing from restrictive compliance with Article 321 § 1 of the Code of Civil Procedure in order to implement the basic function of a civil trial, that is, to grant appropriate legal protection to the plaintiff if there are grounds for doing so. Although the plaintiff, as the host and initiator of the process, is obliged to define their claim clearly and the court is limited by its scope, there are situations in which the court clarifies the claim independently, but in accordance with the plaintiff's intentions and in order to provide them with due protection;

[53] See judgements of the Supreme Court of: 29 November 2017, II CSK 86/17, LEX no. 2417587; 26 March 2014, V CSK 284/13, LEX no. 1463644.

[54] Judgement of 12 September 2014, I CSK 635/13, LEX no. 1521214. See also judgement of the Supreme Court of 9 May 2008, III CSK 17/08, LEX no. 424385: "In the event of an indistinct or even improperly formulated claim, the court may modify it accordingly; however, only in accordance with the will of the plaintiff. Limiting the court to the limits of the claim includes not only limiting it as to the content (amount) of the principal claim, but also as to the motivating elements justifying it"; judgement of the Supreme Court of 29 June 2007, I CSK 81/07, LEX no. 469996; judgement of the Supreme Court of 10 November 2005, III CK 75/05, LEX no. 567999.

[55] Judgement of the Court of Appeal in Warsaw of 24 November 2015, I ACa 348/15, LEX no. 1979330.

[56] Judgement of the Court of Appeal in Lodz of 11 December 2014, I ACa 863/14, LEX no. 1623936.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

such situations prevail over strict procedural formalism. Also, the Supreme Court rightly stated explaining its stance that "the claim may be interpreted in order to consider the plaintiff's actual will", whereas in a doubtful situation, apart from its literal wording, the scope determined by the justification of the claim should be considered. However, in the case of "formulating the claim in a way that raises doubts, the court may modify it accordingly, but it may not award something else (*aliud*) or more (*super*), because it is always limited by the plaintiff's will".

THE ANALYSIS OF THE ISSUE BY THE AUTHOR

Taking into account the considerations to date regarding the issue of the scope of adjudication in cases of pecuniary compensation for harm suffered, on the one hand, it is indicated that the court only after determining the compensation, if it accepts the cause, it deducts in an appropriate proportion this amount of compensation and the amounts that have already been paid. The award of the amount determined in this way, which falls within the claim made by the plaintiff, cannot lead to the finding that the court has exceeded the limits of the claim. It is emphasized that "The plaintiff's claim, i.e. the amount of the claim they have indicated, does not have to be the same as the amount that will ultimately be considered appropriate by the court. The court undoubtedly has to adjudicate within the plaintiff's claim, and cannot make a decision beyond the limits of this claim; however, there is a difference between determining the amount appropriate as compensation and determining the party's claim in court proceedings and its assessment. At the same time, it would be difficult to expect that the plaintiff, especially when they question their contribution to the damage, considered its degree in the context of the claim, *a fortiori* and similarly to compensation, determining this degree is the discretion of the judge. In addition, the plaintiff does not need to consider the possibility of recognizing their contribution to the damage, foresee the possibility of reducing the redress sought for this reason already at the stage of bringing an action, or formulate claims in a much higher amount merely considering only procedural reasons, risking that they will have to incur the costs of the trial in the event of dismissal". When the court does only an accounting operation based on the assumption that the compensation due to the plaintiff is higher than the indicated one in the lawsuit, does not mean that the court ruled above what was claimed[57].

[57] See judgement of the Court of Appeal in Lodz of 18 September 2015, I ACa 362/15, LEX no. 1842746; judgement of the Appeal Court in Bialystok of 7 May 2015, I ACa 10/15, LEX no. 1733644; judgement of the Court of Appeal in Warsaw of 21 December 2012, VI ACa 1031/12, LEX no. 1314953; judgement of the Court of Appeal in Warsaw of 20 October 2015, VI ACa 1432/14, LEX no. 1992951.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

On the other hand, it should be pointed out that "the formal requirements of the lawsuit (Article 187 § 1 of the Code of Civil Procedure), a precisely defined claim and a reference the facts justifying it, determine the subject of the court's examination and decision. The judgement on the claim, as indicated in the claim but submitted to a smaller range than the one justified by the result of the proceedings, is a judgement above what was claimed, contrary to the prohibition set out in Article 321 § 1 of the Code of Civil Procedure, which refers to both the claim and its factual basis. The court rules on the entire subject matter of the dispute, as it was defined by the plaintiff, and the judgement, which is broader than the scope of the claim, is a judgement beyond the claim. Also, in a situation where the court reduces the amount claimed by the plaintiff, considering that the injured party has contributed to the damage caused, the reduction is made in relation to the amount claimed by the plaintiff unless the factual basis shows that this amount has already included the contribution to the damage caused"[58].

In Article 321 § 1 of the Code of Civil Procedure, the rule *ne eat iudex ultra petita partium* falls under both the prohibition to rule on something more and on something other than it was claimed. This provision can also be used to prohibit the court from adjudicating without a claim. Limiting the court by the scope of the claim is closely linked to the principle of the autonomy of the will, according to which everyone may shape their legal situation independently. Therefore, one may freely use their subjective rights and assert them in court or resign from seeking legal protection. This principle is closely connected with the principle of availability, according to which the parties may freely dispose of the subject of the proceedings.

Therefore, the Supreme Court in its resolution correctly emphasized that the principle of autonomy of will, which is under the substantive law, means that "every person may freely decide on their legal situation by means of legal actions, as well as decides how to exercise their subjective rights and assert their protection in court". The correlate of this principle is the procedural principle of availability, which means that the parties may freely use the subject of the dispute and their procedural rights. Thus, "the essence of the civil action is the solution, where the parties can determine on their own the framework of the dispute and thus set the limits of adjudication"[59].

The purpose of monetary compensation is to award the injured party an adequate sum of money for the harm they have suffered. The award of compensation,

[58] See judgement of the Court of Appeal in Kraków of 13 January 2015, I ACa 1428/14, LEX no. 1667583; judgement of the Court of Appeal in Warsaw of 27 November 2015, VI ACa 209/15, LEX no. 1992961; judgement of the Supreme Court of 29 October 2008, IV CSK 243/08, unpublished; judgement of the Supreme Court of 3 March 2017, I CSK 213/16.

[59] Cf. decision of the Supreme Court of 13 September 2007, III CZP 80/07, unpublished; judgement of the Supreme Court of 15 May 2013, III CSK 268/12.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

as envisaged by the legislator, must be "appropriate", which means that the courts deciding on this matter, in principle, have the freedom to determine the amount of compensation due. Therefore, the freedom granted to courts in determining the amount of compensation due is thus enabling the implementation of the compensation function to its most possible extent[60]. Of course, as the Supreme Court accurately indicates, "a person who intends to seek monetary compensation for non-pecuniary damage in the form of negative psychological experiences or moral harm, must, before bringing an action, 'assess' its scope, anticipating the future position of the court and possible statements of the defendant". At the same time, the Supreme Court rightly questions "whether the plaintiff should claim the full and final amount of compensation. If the answer were affirmative, the submitted claim would not correspond to the expected resolution, assuming that the claim will be dismissed in part, incurring higher court fees and legal representation costs, and would unnecessarily involve the other party and the court in a dispute that does not actually exist. The court, when issuing the decision, would then consider the amount claimed as a starting point and the basis for making appropriate reductions for 'inadequate' compensation and in consideration of the statement of the injured party's contribution. Such a solution not only has no basis in procedural law but would also lead to a violation of the principle of rational operation and procedural economy".

It is thus necessary to state that in the proceeding for compensation, the court does not have to follow the method of calculating the compensation indicated by the injured party, but only the amount of the claimed compensation and the factual circumstances that are referred to justify the claim. Thus, the prohibition to adjudicate above what is claimed sufficiently satisfies the rules of availability and adversariality[61].

Undoubtedly, the harm suffered as a result of the death of a close relative is very difficult to assess and express in a monetary form. Each case should be treated individually, considering all the circumstances of the case. According to the consolidated view of the case law, the adjustment of the amount of compensation awarded by the court of appeal is justified only if, considering all the circumstances of the case affecting its level, it is disproportionately inappropriate, either excessively high or abnormally low[62].

---

[60] Cf., i.a, judgement of the Supreme Court of 3 June 2011, III CSK 279/10, unpublished.

[61] Judgement of the Supreme Court of 5 December 2008, III CSK 228/08.

[62] For example, the judgement of the Supreme Court of 18 November 2004, I CK 219/04, LEX no. 146356; judgement of the Court of Appeal in Warsaw of 10 October 2016, VI ACa 945/15, LEX no. 2162882. Cf. judgements of the Supreme Court of: 22 June 2005, III CK 392/04, unpublished; 13 September 2007, III CSK 109/07, unpublished; 10 March 2006, IV CSK 80/05, unpublished; 29 May 2008, II CSK 78/08, unpublished; 20 April 2005, IV CSK 99/05, unpublished.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

The jurisprudence has indicated that compensation, being a form of monetary compensation for non-pecuniary damage, must be "appropriate" to the harm suffered, which is determined considering the overall circumstances of the case, in particular, the extent of physical and mental suffering and the effects of damage to health in the future. The set of these circumstances constitutes the factual basis for determining the compensation, both when specifying the claim by the injured party and when making the decision[63].

It should be also noted that in many cases, the basic factor determining the amount of compensation is, in fact, the amount of the claim submitted by the plaintiff. The courts sometimes explicitly state that "there were actual grounds to consider a slightly higher amount" for compensation, which, however, could not be specified because of the prohibition of adjudication above what was claimed[64].

The Supreme Court accurately accepted the position that the plaintiff claiming an award of a lower amount than the amount that would compensate for the entire non-pecuniary damage, should each time extend the factual basis of the action by explaining directly or indirectly the method of calculating compensation, state that they are entitled to a claim for satisfaction of the damage in a higher extent and give reasons for its limitation. It was also emphasized that "The limits of the subject of the dispute determined by the claim and such justification of the claim constitute the basis for adjudication and enable the court to consider the statements and limitations, respectively, or if they are found to be unfounded or insufficient, to omit and assess the merits of the action using the conditions specified in Article 446 § 4 and Article 362 of the Civil Code resulting in an 'adequate' reduction of the amount claimed". At the same time, it was accepted that the plaintiff may change the subject matter in the course of the proceedings within the limits set by procedural law. It was accurately concluded that "Establishing the court's decision on such a factual basis of the lawsuit in this sense does not violate the principles of availability and adversariality and enables the defendant to form a defence".

The prohibition of adjudicating above what is claimed by the court is not only an expression of the fact that the parties as the hosts and holders of the proceedings (*domini litis*) decide about the extent to which the judge, by exercising their judicial power, can settle a dispute, but also that the parties who are entities interested in the outcome of the proceedings are responsible for asserting their rights. The plaintiff cannot count on the court to rule on their rights in a different scope than the one resulting from their claim. In this way, the hallmarks of the availability principle and the associated adversariality principle are emphasized; these principles

[63] Judgement of the Supreme Court of 29 October 2008, IV CSK 243/08, unpublished.

[64] Cf. judgement of the District Court in Kielce of 5 April 2011, I C 3050/10, unpublished. See J. Sadomski, M. Wild, *Zadośćuczynienie za śmierć osoby najbliższej w orzecznictwie sądów powszechnych*, „Prawo w Działaniu" 2012, no. 12.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

confirm the parties' freedom of action in the civil action, and are also based on the assumption of responsibility for their actions[65]. This is related to the thesis that the essence of the civil action is the solution, where the parties can determine on their own framework of the dispute and thus set the limits of adjudication[66].

However, the significance and importance of the *ne eat iudex ultra petita partium* principle is determined not only by its relations to the principle of availability and, through it, by the principle of the autonomy of the will of private law entities, but also by the important guarantee and protective function of the prohibition of adjudication above what is claimed. Limiting the authority of the court by authorizing it to decide only about what is the subject of the dispute, and making this authority dependent on the will of the parties also serves to protect the citizen against violation of their rights by means of a court decision or even against judicial "arbitrariness"; the judge may decide only on what is claimed, and not, at its option, any claim[67].

The principle of *ne eat iudex ultra petita partium* means that the court may decide only on what is claimed submitted by the party requesting legal protection. The scope of the requested legal protection thus sets the boundaries of the subject of the decision[68]. At the same time, the assumption that there should be complete agreement between the subject of the proceedings and the subject of the ruling, i.e. what covers the subject of the decision, should be considered correct[69]. As a result, it must be recognized that there are a close relationship and interdependence between limiting the court with what is claimed and the subject matter of the dispute. In determining the claim, the plaintiff thus sets the boundaries of the subject of the dispute, and limiting the court with what is claimed is tantamount to limiting the subject of the dispute[70].

The comparison of Article 187 § 1 of the Code of Civil Procedure (the necessity to specify precisely the claim and refer to the facts that justify it by the plaintiff in the lawsuit) and Article 321 § 1 of the Code of Civil Procedure (prohibition of ruling on the subject that is not claimed, and awarding above what is claimed) allows to give priority to Article 187 § 1 of the Code of Civil Procedure and assume that

---

[65] The Supreme Court accurately formulated this in its decision of 27 September 2000 (V CKN 1099/00, LEX no. 532132): "[…] the plaintiff is the requester and in these circumstances must also consider the procedural consequences of the claim, which they insist on".

[66] K. Weitz, *op. cit.*, p. 681.

[67] See T. Ereciński, *Orzekanie ponad żądanie w sprawach o naprawienie szkody wyrządzonej czynem niedozwolonym (kilka uwag na tle art. 321 § 2 k.p.c.)*, [in:] *Odpowiedzialność cywilna. Księga pamiątkowa ku czci Profesora Adama Szpunara*, ed. M. Pyziak-Szafnicka, Kraków 2004, p. 114.

[68] Judgement of the Supreme Court of 19 January 2006, unpublished.

[69] K. Weitz, *op. cit.*, p. 689.

[70] See judgement of the Supreme Court of 28 April 1998, II CKN 712/97, OSNC 1998, no. 11, item 187; decision of the Supreme Court of 27 September 2000, V CKN 1099/00, LEX no. 532132. See also the rationale for judgement of the Supreme Court of 7 April 1959, I CR 953/58, OSPiKA 1960, no. 6, item 150.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

the boundaries of the subject of the dispute are determined not only by the claim (its content) but also by its factual basis understood as the factual circumstances relied on to justify the claim for a specific content of the judgement. As a result, a request within the meaning of Article 321 § 1 of the Code of Civil Procedure it should be determined not only by reference to its content but also to the facts relied on to justify it[71].

To determine the limits within which the court may decide, it is important to determine what the plaintiff is actually claiming, which is not always possible only on the basis of the wording of the claim. In practice, the problem of its interpretation arises when the plaintiff has formulated it not precisely enough, and there is no basis to consider it as non-compliance with the formal conditions of the lawsuit (Article 130 § 1 and Article 187 § 1 of the Code of Civil Procedure).

The doctrine and case law are in agreement that the claim made by the plaintiff may, if necessary, be an interpreter with the aim to ensure that the decision has its subject that corresponds with the plaintiff's actual claim[72]. The decisive meaning may not be the literal wording of the claim itself, but the plaintiff's will expressed in it to obtain from the court a ruling which will have specific legal outcomes. The interpretation of the claim should consider not only its content (its conclusion) but also its factual justification provided by the plaintiff[73]. It is related to the assumption that the limits within which the court may decide (Article 321 § 1 of the Code of Civil Procedure) are determined not only by the content of the claim but also by its factual basis. In addition, the court, when attempting to determine the correct content of the plaintiff's claim, may also use the method of asking questions to interpret it[74]. As a result, limiting the court with what is claimed does not mean that the court is simply limited by the wording of the claim, but by what constitutes the

[71] This view is uniformly presented in the judicature. Cf., e.g., judgements of the Supreme Court of: 29 February 1949, WaC 165/49, DPP 1950, no. 3, p. 61; 21 April 1965, II CR 92/65, LEX no. 5781; 28 April 1998, II CKN 712/97, OSNC 1998, no. 11, item 187; 23 February 1999, I CKN 252/98, OSNC 1999, no. 9, item 152; 6 December 2006, IV CSK 269/06, unpublished; 18 marca 2005, II CK 556/04, OSNC 2006, no. 2, item 38; 24 May 2007, V CSK 25/07, OSNC-ZD 2008, no. B, item 32; 7 November 2007, II CSK 344/07, unpublished; 21 May 2009, V CSK 439/08, LEX no. 518121.

[72] Zob. J. Misztal-Konecka, *Zakaz wyrokowania ponad żądanie strony (ne eat iudex ultra petita partium) – rzymskie tradycje i współczesne regulacje polskiego procesowego prawa cywilnego*, „Zeszyty Prawnicze Uniwersytetu Kardynała Stefana Wyszyńskiego" 2012, no. 12.4, p. 41; K. Piasecki, *Orzekanie ponad żądanie…*; A. Struzik, *Da mihi factum dabo tibi ius*, [in:] *Aurea praxis, aurea theoria…*, p. 599; T. Ereciński, *op. cit.*. See judgements of the Supreme Court of: 24 May 1995, I CRN 61/95, unpublished; 19 January 2006, IV CK 376/05, unpublished; 28 June 2007, IV CSK 115/07, unpublished.

[73] Judgements of the Supreme Court of: 24 May 1995, I CRN 61/95, unpublished; 19 January 2006, IV CK 376/05, unpublished.

[74] Por. B. Dobrzański, *Glosa do uchwały SN z 21 grudnia 1973 r., III CZP 80/73*, OSPiKA 1975, no. 2, item 31, p. 59.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

plaintiff's will. Therefore, it is not the case that the court must reflect the literal wording of the claim in its judgement, but may, if necessary and in accordance with the outcomes of the interpretation of the claim, modify the wording in the operative part of the judgement in such a way to express the plaintiff's will in the claim's content in the correct judicial form[75]. Naturally, all interpretative measures must not lead to the court changing the actual content of the plaintiff's claim and deciding on something more than the plaintiff (*plus*) claimed, or something that the plaintiff did not claim (*aliud*)[76]. In practice, this issue must be assessed *ad casu*, because only when considering the background of the circumstances of the specific case, it can be determined whether the court merely specified in the judgement the plaintiff's claim or replace it with something that the plaintiff did not claim at all.

REFERENCES

Literature

Allerhand M., *Kodeks postępowania cywilnego*, vol. 1, Lwów 1932.

Banaszczyk Z., [in:] *Kodeks cywilny. Komentarz*, ed. K. Pietrzykowski, vol. 1, Legalis 2015.

Dobrzański B., *Glosa do uchwały SN z 21 grudnia 1973 r., III CZP 80/73*, OSPiKA 1975, no. 2, item 31.

Ereciński T., *Orzekanie ponad żądanie w sprawach o naprawienie szkody wyrządzonej czynem niedozwolonym (kilka uwag na tle art. 321 § 2 k.p.c.)*, [in:] *Odpowiedzialność cywilna. Księga pamiątkowa ku czci Profesora Adama Szpunara*, ed. M. Pyziak-Szafnicka, Kraków 2004.

Gapska E., Studzińska J., *Postępowanie nieprocesowe*, Warszawa 2015.

Granecki P., *W sprawie wykładni art. 362 kodeksu cywilnego*, „Państwo i Prawo" 2003, no. 1.

Jakubecki A., *Komentarz do kodeksu postępowania cywilnego*, LEX/el. 2013.

Jodłowski J., Resich Z., Lapierre J., Misiuk-Jodłowska T., Weitz K., *Postępowanie cywilne*, Warszawa 2002.

[75] W. Piasecki, J. Korzonek, *Kodeks postępowania cywilnego i przepisy wprowadzające kodeks postępowania cywilnego z komentarzem uwzględniającym wszystkie przepisy pozostające w związku z procesem, materjały Komisji Kodyfikacyjnej, orzecznictwo Sądów Najwyższych b. państw zaborczych i polskiego oraz literaturę procesu cywilnego*, Miejsce Piastowe 1931, p. 777, Article 349, comment 2; M. Allerhand, *Kodeks postępowania cywilnego*, vol. 1, Lwów 1932, p. 375, Article 349, comment 1; L. Peiper, *Komentarz do kodeksu postępowania cywilnego i przepisów wprowadzających kodeks postępowania cywilnego wraz z ustawami i rozporządzeniami dodatkowymi, tudzież umowami międzynarodowymi*, vol. 1, Kraków 1934, p. 719, Article 342, comment 1. This view is supported in the Polish jurisprudence. See judgements of the Supreme Court of: 27 February 1922, I C 541/21, Journal of Decisions of the First Chamber 1922, item 18; 13 October 1933, C II Rw 1638/33, Journal of Decisions 1934, item 290; 12 January 1939, C II 1399/38, PS 1939, no. 5, item 281; 21 October 1949, Wa C 87/49, DPP 1950, no. 3, p. 61; 14 December 1976, IV CR 525/76, LEX no. 7891; 19 January 2006, IV CK 376/05, unpublished; 28 June 2007, IV CSK 115/07, unpublished; 9 May 2008, III CSK 17/08, LEX no. 424385; 28 August 2008, III CZP 76/08, OSNC 2009, no. 7–8, item 113.

[76] See judgement of the Supreme Court of 28 June 2007, IV CSK 115/07, unpublished.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Jóźwiak P., *Zmniejszenie odszkodowania w razie przyczynienia się zmarłego wskutek czynu niedozwolonego*, „Państwo i Prawo" 2011, no. 12.
Koch A., [in:] *Kodeks cywilny*, vol. 1: *Komentarz do art. 1–352*, ed. Gutowski, Legalis 2018.
Kodeks postępowania cywilnego. Komentarz, ed. T. Ereciński, vol. 2, Warszawa 2012.
Kruszelnicki Ś., *Kodeks postępowania cywilnego z komentarzem*, part 1, Poznań 1938.
Kryla K., *Zadośćuczynienie pieniężne dla najbliższych członków rodziny zmarłego – uwagi na tle art. 446 § 4 k.c.*, „Przegląd Sądowy" 2013, no. 2.
Łętowska E., *Glosa do wyroku s.rej. z dnia 6 maja 2004 r., I C 260/03*, „Państwo i Prawo" 2005, no. 10.
Markiewicz K., *Komentarz do art. 321*, [in:] *Komentarz do kodeksu postępowania cywilnego*, ed. K. Piasecki, Legalis 2016.
Mądrzak H., [in:] *Postępowanie cywilne*, ed. H. Mądrzak, Warszawa 2003.
Misztal-Konecka J., *Zakaz wyrokowania ponad żądanie strony (ne eat iudex ultra petita partium) – rzymskie tradycje i współczesne regulacje polskiego procesowego prawa cywilnego*, „Zeszyty Prawnicze Uniwersytetu Kardynała Stefana Wyszyńskiego" 2012, no. 12.4.
Olejniczak A., [in:] *Kodeks cywilny. Komentarz*, ed. A. Kidyba, vol. 2, part 1, Legalis 2014.
Peiper L., *Komentarz do kodeksu postępowania cywilnego i przepisów wprowadzających kodeks postępowania cywilnego wraz z ustawami i rozporządzeniami dodatkowymi, tudzież umowami międzynarodowymi*, vol. 1, Kraków 1934.
Piasecki K., [in:] *System prawa procesowego cywilnego*, vol. 2: *Postępowanie rozpoznawcze przed sądami pierwszej instancji*, ed. W. Berutowicz, Z. Resich, Wrocław 1987.
Piasecki K., *Orzekanie ponad żądanie w procesie cywilnym*, Warszawa 1975.
Piasecki K., *Postępowanie sporne rozpoznawcze*, Warszawa 2004.
Piasecki K., Korzonek J., *Kodeks postępowania cywilnego i przepisy wprowadzające kodeks postępowania cywilnego z komentarzem uwzględniającym wszystkie przepisy pozostające w związku z procesem, materjały Komisji Kodyfikacyjnej, orzecznictwo Sądów Najwyższych b. państw zaborczych i polskiego oraz literaturę procesu cywilnego*, Miejsce Piastowe 1931.
Sadomski J., Wild M., *Zadośćuczynienie za śmierć osoby najbliższej w orzecznictwie sądów powszechnych*, „Prawo w Działaniu" 2012, no. 12.
Safjan M., *Komentarz do art. 446*, [in:] *Komentarz do k.c.*, ed. K. Pietrzykowski, Legalis 2018.
Siedlecki W., *Zasady orzekania oraz zasady zaskarżania orzeczeń w postępowaniu cywilnym w świetle orzecznictwa Sądu Najwyższego*, Warszawa 1982.
Struzik A., *Da mihi factum dabo tibi ius*, [in:] *Aurea praxis, aurea theoria. Księga pamiątkowa ku czci Profesora Tadeusza Erecińskiego*, eds. J. Gudowski, K. Weitz, vol. 1, Warszawa 2011.
Szpunar A., *Przyczynienie się do powstania szkody w wypadku komunikacyjnym*, „Rejent" 2001, no. 6.
Weitz K., *Związanie sądu granicami żądania w procesie cywilnym*, [in:] *Aurea praxis, aurea theoria. Księga pamiątkowa ku czci Profesora Tadeusza Erecińskiego*, eds. J. Gudowski, T. Ereciński, vol. 1, Warszawa 2011.
Zagrobelny K., [in:] *Kodeks cywilny. Komentarz*, eds. E. Gniewek, P. Machnikowski, Legalis 2016.

Legal acts

Act of 30 May 2008 on amending the Act – Civil Code and some other acts (Journal of Laws no. 116, item 731).

Case law

Decision of the Court of Appeal in Warsaw of 25 October 2018, V ACa 1364/17.
Decision of the Supreme Court of 27 September 2000, V CKN 1099/00, LEX no. 532132.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Decision of the Supreme Court of 7 December 2017, V CSK 110/17.
Decision of the Supreme Court of 13 September 2007, III CZP 80/07, unpublished.
Decision of the Supreme Court of 10 November 2017, V CZ 73/17, LEX no. 2428820.
Judgement of the Constitutional Tribunal of 7 February 2005, SK 49/03, OTK-A 2005, no. 2, item 13.
Judgement of the Court of Appeal in Poznań of 21 April 2010, I ACa 267/10, LEX no. 628188.
Judgement of the Court of Appeal in Warsaw of 6 December 2012, I ACa 717/12, LEX no. 1299000.
Judgement of the Court of Appeal in Warsaw of 21 December 2012, VI ACa 1031/12, LEX no. 1314953.
Judgement of the Court of Appeal in Bialystok of 27 March 2013, I ACa 34/13, LEX no. 1307394.
Judgement of the Court of Appeal in Szczecin of 8 May 2013, I ACa 1/13, LEX no. 1378841.
Judgement of the Court of Appeal in Szczecin of 5 November 2013, III AUa 384/13, LEX no. 1422420.
Judgement of the Court of Appeal in Lublin of 24 June 2014, I ACa 155/14, LEX no. 1498954.
Judgement of the Court of Appeal in Lodz of 5 November 2014, I ACa 679/14, Legalis.
Judgement of the Court of Appeal in Lodz of 11 December 2014, I ACa 863/14, LEX no. 1623936.
Judgement of the Court of Appeal in Kraków of 13 January 2015, I ACa 1428/14, LEX no. 1667583.
Judgement of the Court of Appeal in Wrocław of 6 May 2015, I ACa 245/15, Legalis.
Judgement of the Court of Appeal in Bialystok of 7 May 2015, I ACa 10/15, LEX no. 1733644.
Judgement of the Court of Appeal in Lublin of 11 June 2015, I ACa 57/15, Legalis.
Judgement of the Court of Appeal in Warsaw of 20 October 2015, VI ACa 1432/14, LEX no. 1992951.
Judgement of the Court of Appeal in Warsaw of 24 November 2015, I ACa 348/15, LEX no. 1979330.
Judgement of the Court of Appeal in Warsaw of 27 November 2015, VI ACa 209/15, LEX no. 1992961.
Judgement of the Court of Appeal in Lodz of 18 September 2015, I ACa 362/15, LEX no. 1842746.
Judgement of the Court of Appeal in Lodz of 19 May 2016, I ACa 1356/15, LEX no. 2069281.
Judgement of the Court of Appeal in Warsaw of 10 October 2016, VI ACa 945/15, LEX no. 2162882.
Judgement of the Court of Appeal in Szczecin of 24 November 2016, I ACa 427/16, LEX no. 2188828.
Judgement of the District Court in Kielce of 5 April 2011, I C 3050/10, unpublished.
Judgement of the District Court in Suwałki of 26 March 2014, I CA 44/14, LEX no. 1682438.
Judgement of the Supreme Court of 27 February 1922, I C 541/21, Journal of Decisions of the First Chamber 1922, item 18.
Judgement of the Supreme Court of 13 October 1933, C II Rw 1638/33, Journal of Decisions 1934, item 290.
Judgement of the Supreme Court of 24 January 1936, C II 1770/35, PPiA 1936, no. 2, item 148.
Judgement of the Supreme Court of 25 October 1937, C II 1174/37, Journal of Decisions 1938, item 334.
Judgement of the Supreme Court of 12 January 1939, C II 1399/38, PS 1939, no. 5, item. 281.
Judgement of the Supreme Court of 29 February 1949, WaC 165/49, DPP 1950, no. 3, p. 61.
Judgement of the Supreme Court of 21 October 1949, Wa C 87/49, DPP 1950, no. 3, p. 61.
Judgement of the Supreme Court of 29 November 1949, Wa.C. 163/49, published […] 1950, no. 3, item 61.
Judgement of the Supreme Court of 14 July 1951, C 544/51, unpublished.
Judgement of the Supreme Court of 7 April 1959, I CR 953/58, OSPiKA 1960, no. 6, item 150.
Judgement of the Supreme Court of 21 April 1965, II CR 92/65, LEX no. 5781.
Judgement of the Supreme Court of 27 August 1969, I PR 224/69, OSN 1970, no. 6, item 111.
Judgement of the Supreme Court of 20 January 1970, II CR 624/69, OSNC 1970, no. 9, item 163.
Judgement of the Supreme Court of 28 July 1970, I CR 304/70, LEX no. 6766.
Judgement of the Supreme Court of 10 February 1971, I PR 106/70, unpublished.
Judgement of the Supreme Court of 23 January 1974, II CR 763/73, OSPiKA 1975, no. 7, item 171.
Judgement of the Supreme Court of 14 December 1976, IV CR 525/76, LEX no. 7891.
Judgement of the Supreme Court of 1 March 1985, I CR 27/85, OSPiKA 1989, no. 5, item 115.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Judgement of the Supreme Court of 7 December 1985, IV CR 398/85, unpublished.
Judgement of the Supreme Court of 29 October 1993, I CRN 156/93, unpublished.
Judgement of the Supreme Court of 24 May 1995, I CRN 61/95, unpublished.
Judgement of the Supreme Court of 6 March 1997, II UKN 20/97, OSNP 1997, no. 23, item 478.
Judgement of the Supreme Court of 18 March 1997, I CKU 25/97, unpublished.
Judgement of the Supreme Court of 28 April 1998, II CKN 712/97, OSNC 1998, no. 11, item 187.
Judgement of the Supreme Court of 23 February 1999, I CKN 252/98, OSNC 1999, no. 9, item 152.
Judgement of the Supreme Court of 26 May 1999, III CKN 243/98, unpublished.
Judgement of the Supreme Court of 29 October 1999, I CKN 464/98, unpublished.
Judgement of the Supreme Court of 27 March 2000, III CKN 633/98, unpublished.
Judgement of the Supreme Court of 17 January 2001, II KKN 351/99, Prok. i Pr. (supplement) 2001, no. 6, p. 11.
Judgement of the Supreme Court of 12 February 2002, I CKN 902/99, unpublished.
Judgement of the Supreme Court of 11 June 2003, V CKN 337/01, unpublished.
Judgement of the Supreme Court of 23 July 2004, III CK 339/03, unpublished.
Judgement of the Supreme Court of 9 November 2004, IV CK 194/04, unpublished.
Judgement of the Supreme Court of 18 November 2004, I CK 219/04, LEX no. 146356.
Judgement of the Supreme Court of 18 March 2005, II CK 556/04, OSNC 2006, no. 2, item 38.
Judgement of the Supreme Court of 20 April 2005, IV CSK 99/05, unpublished.
Judgement of the Supreme Court of 28 April 2005, III CK 571/04, unpublished.
Judgement of the Supreme Court of 22 June 2005, III CK 392/04, unpublished.
Judgement of the Supreme Court of 10 November 2005, III CK 75/05, LEX no. 567999.
Judgement of the Supreme Court of 2 December 2005, II CK 277/05, unpublished.
Judgement of the Supreme Court of 19 January 2006, IV CK 376/05, unpublished.
Judgement of the Supreme Court of 10 March 2006, IV CSK 80/05, unpublished.
Judgement of the Supreme Court of 3 August 2006, IV CSK 118/06, unpublished.
Judgement of the Supreme Court of 6 December 2006, IV CSK 269/06, unpublished.
Judgement of the Supreme Court of 12 January 2007, IV CSK 286/06, unpublished.
Judgement of the Supreme Court of 24 May 2007, V CSK 25/07, OSNC-ZD 2008, no. B, item 32.
Judgement of the Supreme Court of 28 June 2007, IV CSK 115/07, unpublished.
Judgement of the Supreme Court of 29 June 2007, I CSK 81/07, LEX no. 469996.
Judgement of the Supreme Court of 13 September 2007, III CSK 109/07, unpublished.
Judgement of the Supreme Court of 7 November 2007, II CSK 344/07, unpublished.
Judgement of the Supreme Court of 9 May 2008, III CSK 17/08, LEX no. 424385.
Judgement of the Supreme Court of 29 May 2008, II CSK 78/08, unpublished.
Judgement of the Supreme Court of 28 August 2008, III CZP 76/08, OSNC 2009, no. 7–8, item 113.
Judgement of the Supreme Court of 29 October 2008, IV CSK 228/08, OSNC-ZD 2009, no. 3, item 66.
Judgement of the Supreme Court of 29 October 2008, IV CSK 243/08, unpublished.
Judgement of the Supreme Court of 5 November 2008, I CSK 139/08, unpublished.
Judgement of the Supreme Court of 19 November 2008, III CSK 154/08.
Judgement of the Supreme Court of 5 December 2008, III CSK 228/08.
Judgement of the Supreme Court of 11 December 2008, II CSK 364/08.
Judgement of the Supreme Court of 21 May 2009, V CSK 439/08, LEX no. 518121.
Judgement of the Supreme Court of 17 June 2009, IV CSK 84/09, unpublished.
Judgement of the Supreme Court of 21 October 2009, I PK 97/09.
Judgement of the Supreme Court of 19 November 2009, IV CSK 241/09, unpublished.
Judgement of the Supreme Court of 7 May 2010, III CSK 229/09, unpublished.
Judgement of the Supreme Court of 18 May 2010, III PK 74/09, unpublished.
Judgement of the Supreme Court of 15 October 2010, III UK 20/10, LEX no. 694242.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

Judgement of the Supreme Court of 3 February 2011, I CSK 261/10, unpublished.
Judgement of the Supreme Court of 2 December 2011, III CSK 136/11, unpublished.
Judgement of the Supreme Court of 3 June 2011, III CSK 279/10, unpublished.
Judgement of the Supreme Court of 12 July 2012, I CSK 660/11, unpublished.
Judgement of the Supreme Court of 15 May 2013, III CSK 268/12.
Judgement of the Supreme Court of 12 September 2013, IV CSK 87/13.
Judgement of the Supreme Court of 19 March 2014, I CSK 295/13, OSNC 2015, no. 3, item 34.
Judgement of the Supreme Court of 26 March 2014, V CSK 284/13, LEX no. 1463644.
Judgement of the Supreme Court of 5 June 2014, IV CSK 588/13, unpublished.
Judgement of the Supreme Court of 27 June 2014, V CSK 445/13.
Judgement of the Supreme Court of 11 September 2014, III CSK 248/13, unpublished.
Judgement of the Supreme Court of 12 September 2014, I CSK 635/13, LEX no. 1521214.
Judgement of the Supreme Court of 9 December 2014, III CNP 36/13, OSNC-ZD 2016, no. 1, item 15.
Judgement of the Supreme Court of 26 February 2015, III CSK 187/14, OSNC-ZD 2016, no. 3, item 41.
Judgement of the Supreme Court of 25 June 2015, V CSK 612/14, LEX no. 1771393.
Judgement of the Supreme Court of 23 July 2015, I CSK 549/14, unpublished.
Judgement of the Supreme Court of 2 March 2016, V CSK 399/15, unpublished.
Judgement of the Supreme Court of 23 June 2016, II PK 149/15.
Judgement of the Supreme Court of 27 April 2016, II CSK 518/15, OSP 2017, no. 1, item 2.
Judgement of the Supreme Court of 8 September 2016, II CSK 170/15, LEX no. 2182659.
Judgement of the Supreme Court of 29 September 2016, V CSK 717/15, unpublished.
Judgement of the Supreme Court of 12 October 2016, II CSK 14/16, LEX no. 2142552.
Judgement of the Supreme Court of 17 November 2016, IV CSK 15/16, Legalis.
Judgement of the Supreme Court of 19 January 2017, II CSK 195/16, unpublished.
Judgement of the Supreme Court of 26 January 2017, II PK 333/15, LEX no. 2252200.
Judgement of the Supreme Court of 23 February 2017, I CSK 121/16, Legalis.
Judgement of the Supreme Court of 3 March 2017, I CSK 213/16.
Judgement of the Supreme Court of 8 March 2017, IV CSK 258/16, Legalis.
Judgement of the Supreme Court of 7 March 2017, II CSK 438/16, unpublished.
Judgement of the Supreme Court of 14 March 2017, II CSK 237/16, LEX no. 2334876.
Judgement of the Supreme Court of 14 June 2017, IV CSK 104/17, OSNC 2018, no. 3, item 35.
Judgement of the Supreme Court of 14 July 2017, II CSK 820/16, unpublished.
Judgement of the Supreme Court of 28 July 2017, II CSK 685/16, LEX no. 2353042.
Judgement of the Supreme Court of 6 September 2017, I CNP 28/17, unpublished.
Judgement of the Supreme Court of 6 September 2017, I PK 262/16, LEX no. 2389579.
Judgement of the Supreme Court of 22 November 2017, IV CSK 8/17, unpublished.
Judgement of the Supreme Court of 29 November 2017, II CSK 86/17, LEX no. 2417587.
Judgement of the Supreme Court of 7 December 2017, II CSK 87/17, LEX no. 2439117.
Judgement of the Supreme Court of 16 March 2018, IV CSK 114/17, OSNC-ZD 2019, no. 1, item 13.
Judgement of the Supreme Court of 13 June 2018, IV CSK 276/17, unpublished.
Resolution of seven judges of the Supreme Court of 11 January 1960, I CO 44/59, OSNCK 1960, no. 4, item 92.
Resolution of seven judges of the Supreme Court of 20 September 1975, III CZP 8/75, OSNCP 1976, no. 7–8, item 151.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 12/11/2026 10:52:45

STRESZCZENIE

Celem niniejszego opracowania jest analiza zagadnień prawnych związanych z zakresem orzekania w sprawach o zadośćuczynienie pieniężne za doznaną krzywdę, zwłaszcza w sytuacji, w której strona podniosła zarzut przyczynienia się poszkodowanego do powstania szkody, a żądanie zgłoszone w pozwie obejmowało kwotę niższą od potencjalnie „odpowiedniego zadośćuczynienia". Obowiązywanie zasady *ne eat iudex ultra petita partium* oznacza, że sąd może orzec wyłącznie o tym, co zostało objęte żądaniem przedstawionym przez podmiot występujący z wnioskiem o udzielenie ochrony prawnej. Niniejsza analiza prowadzi do wniosku, że zakres żądanej ochrony prawnej wyznacza granice przedmiotu rozstrzygnięcia. Jednocześnie za prawidłowe należy uznać założenie, że powinna istnieć całkowita zgodność między przedmiotem procesu a przedmiotem orzekania, tj. tym, co obejmuje przedmiot rozstrzygnięcia. W rezultacie należy stwierdzić, że istnieje ścisły związek i współzależność pomiędzy związaniem sądu granicami żądania a problematyką przedmiotu sporu. Określając żądanie, powód wyznacza więc granice przedmiotu sporu, a związanie sądu przedstawionym żądaniem jest równoznaczne ze związaniem przedmiotem sporu.

Słowa kluczowe: zadośćuczynienie pieniężne; przyczynienie się poszkodowanego; podstawa faktyczna; żądanie

UMCS