

apply to any damage caused to property which the passenger either wears or has with him.

(2) The air carrier shall also be liable for any damage caused during the air carriage to goods transported or to hold baggage. Air carriage should include the time during which the goods or the baggage are at an airport, aboard an aircraft or, if a landing is made outside an airport, are otherwise in the custody of the air carrier.

Article 45

There shall be no liability of the air carrier under Article 44 if he proves that he and his employees have taken all measures necessary to prevent the damage or that they could not take such measures.

Article 46

(1) In the case of death of, or injury to, a person transported the air carrier shall be liable up to an amount of thirty-five thousand German marks for each person. This shall also apply to the cash value of an annuity that has been granted as compensation.

(2) In the case of loss of, or damage to, property transported the air carrier shall be liable up to an amount of seventy German marks per kilogram. This limitation shall not apply when the sender has declared the actual value of the piece when sending it and has paid the supplement agreed upon. In such case the air carrier shall pay damages up to the amount of the actual value declared unless he proves that the value declared is higher than the damage which actually accrued.

(3) The liability of the air carrier for things which the passenger wears or has with him shall be limited to a maximum amount of one thousand four hundred German marks for each passenger.

Article 47

Otherwise Articles 34 to 36, and 38 to 40 shall apply to the liability of the air carrier for damages to persons or property transported.

Article 48

(1) A claim for damages against the air carrier must be made according to the provisions of this section. However, when the damage has been caused intentionally or by the gross negligence of the air carrier or one of his employees in the exercise of their functions, their liability under the provisions of general law shall not be affected; in such case the limitation on liability provided for in this law shall not apply.

(2) Furthermore, the legal provisions according to which the aircraft commander or other persons are liable for the damages shall not be affected.

Article 49

(1) Air carriers may not by contract in advance exclude or limit the liability according to Articles 44 to 48. This shall also apply to other operators of aircraft who transport in an aircraft passengers for pay or in connection with their profession or trade.

(2) An agreement which is contrary to the provision of paragraph (1) shall be voided; this shall not void any other provisions of the contract.