

TITLE TWO—LIABILITY FOR DAMAGES [CAUSED] TO THIRD PERSONS ON THE GROUND OR FOR DAMAGES CAUSED BY COLLISION

CHAPTER I. LIABILITY FOR DAMAGES TO THIRD PERSON ON THE GROUND

Art. 965. (Liability of the operator for damages to third parties on the ground.) The operator shall be liable from the take-off until landing for damages caused by the aircraft to persons and property on the ground, including those resulting from acts of God.

However, liability shall be excluded when (a) the operator proves that the damages were caused intentionally without connection with the operation of the aircraft by persons extraneous to the crew on board, and that he himself and his employees were unable to prevent them; (b) where the operator can prove that the damages were the fault of the damaged party.

Art. 966. (Contributory negligence of the damaged party.) If the act of the damaged party was a contributory cause to the damage, the amount of compensation shall be decreased in proportion to the seriousness of negligence and the importance of its consequences.

Compensation shall not be due for damages which the damaged party could have avoided by using ordinary care.

Art. 967. (Limits of total compensation.) The total compensation due by a carrier provided for in Article 965, shall be limited for each accident to ten thousands lire per kilogram of the weight of the aircraft plus that of the maximum load as indicated in the airworthiness and test certificates.

When the amount fixed on the basis of the weight of the aircraft is less than twenty-five million liras, or more than eighty million liras, the carrier shall remain liable for the balance until payment of such amount. If the damage is caused by a tourist aircraft, or by a glider, the minimum limit is reduced to ten million liras.¹³

Art. 968. (Division of claims by creditors.) Creditors for damages caused by accidents to persons, shall have a claim, within the maximum limit of eight million liras for each person of two thirds of the amount reserved for the total compensation due by the carrier; the creditors for damage to goods, shall have claim to the remaining one third.

However, if the amount of credits due for damages to goods is less than one third, those creditors for accidents caused to persons within the individual maximum limit indicated, shall have a claim to such amount. Likewise, if the amount of credits for damages to persons is less than two thirds, the creditors for damages to goods shall share the remainder.¹⁴

Art. 969. (Proportional reduction of credits.) When the total amount of compensation due to third persons who have suffered damages in the same accident is greater than the limits provided for in Article 967, the amount due to each one shall be reduced proportionally up to the total extent of the same limits.

Art. 970. (Preference.) In the preference of creditors for a limited amount, the credits of the third parties damaged who have given formal notice to the carrier or have, in some other way, made a claim

¹³ This Article has been thus amended by Article 7 of the Law No. 202 of April 16, 1954.

¹⁴ Thus amended by Article 8 of the Law No. 202 of April 16, 1954.