

to their rights within six months from the day of accident, shall be preferred to the credits of third parties damaged who have given such notification or claimed their rights at a later date.

Art. 971. (Exclusion of the limitation on compensation.) The limitation on the compensation provided for in Article 967 shall not apply:

a) when the damaged party has proved fraud or gross negligence on the parts of the carrier, his employees or agents, and carrier is unable to prove that the damage is the result of error in piloting, guidance or navigation;

b) when the damaged party has proved fraud or gross negligence of the employees or agents, and the carrier cannot prove that he has taken all precautions necessary to prevent the damage;

c) when the carrier has not contracted for, or maintained in effect the insurance required in Article 798, or when the insurance does not cover the liability of the carrier in the manner and to the extent provided for in the preceding articles.

Art. 972. (Cases of the inapplicability of the preceding provisions.) The preceding provisions shall not apply when the liability between the carrier and the damaged party is regulated by a labor contract, a carriage contract, or some other contract.

Art. 973. (Statute of limitation.) The right to compensation for damages to third persons on the ground shall expire one year from the day when the damage occurred.

However, if the damaged party proves that it was impossible for him to receive notification of the damage or to identify the responsible party, the term shall start from the day of such information or identification. In any event, the right shall expire three years from the day on which the accident occurred.

CHAPTER II. LIABILITY FOR DAMAGES CAUSED BY COLLISION

Art. 974. (Damage caused by collision, explosion or similar causes.) In case of collision between aircraft in flight, or a flying aircraft and a vessel in motion, Articles 482 to 487 shall apply. The same provisions shall apply when the damages have been caused by explosion or some similar cause, even if actual collision did not occur between aircraft in flight, or the flying aircraft and the vessel in motion.

For the purposes of the preceding paragraph, an aircraft shall be deemed in flight from the time of its takeoff until the landing is accomplished.

Art. 975. (Limits of compensation.) The total amount of compensation due from a carrier shall be limited in any accident to the amount of ten thousand liras per kilogram of the weight of the aircraft including the weight of the maximum cargo, in accordance with the indications of the airworthiness and test certificates.

When the amount established on the basis of the weight of the aircraft is less than twenty-five million liras or more than eighty-three million liras, the carrier shall be liable up to the total of such amounts. If the case concerns a tourist aircraft or a glider the minimum limit shall be reduced to ten million liras.¹⁵

¹⁵ This article has been thus amended by Article 9, of Law No. 202 of April 16, 1954.