

(c) An award by the health claims arbitration panel in accordance with § 3-2A-06 of this article shall be considered an award for purposes of this section.

(d) (1) In a jury trial, the jury may not be informed of the limitation established under subsection (b) of this section.

(2) (i) If the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b) of this section, the court shall reduce the amount to conform to the limitation.

(ii) In a wrongful death action in which there are two or more claimants or beneficiaries, if the jury awards an amount for noneconomic damages that exceeds the limitation established under subsection (b)(3)(ii) of this section, the court shall:

1. IF THE AMOUNT OF NONECONOMIC DAMAGES FOR THE PRIMARY ~~BENEFICIARIES CLAIMANTS~~ EQUALS OR EXCEEDS THE LIMITATION UNDER SUBSECTION (B)(3)(II) OF THIS SECTION; ~~reduce;~~

A. REDUCE each individual award OF A PRIMARY BENEFICIARY CLAIMANT proportionately TO THE TOTAL AWARD OF ALL OF THE PRIMARY BENEFICIARIES CLAIMANTS so that the total award TO ALL CLAIMANTS OR BENEFICIARIES conforms to the limitation; OR AND

B. REDUCE EACH AWARD, IF ANY, TO A SECONDARY CLAIMANT TO ZERO DOLLARS; OR

2. IF THE AMOUNT OF NONECONOMIC DAMAGES FOR THE PRIMARY ~~BENEFICIARIES CLAIMANTS~~ DOES NOT EXCEED THE LIMITATION UNDER SUBSECTION (B)(3)(II) OF THIS SECTION; OR IF THERE IS NO AWARD TO A PRIMARY CLAIMANT, THE COURT SHALL:

A. ENTER AN AWARD TO ANY THE PRIMARY BENEFICIARY CLAIMANT, IF ANY, AS DIRECTED BY THE VERDICT; AND

B. REDUCE EACH INDIVIDUAL AWARD OF A SECONDARY BENEFICIARY CLAIMANT PROPORTIONATELY TO THE TOTAL AWARD OF ALL OF THE SECONDARY BENEFICIARIES CLAIMANTS SO THAT THE TOTAL AWARD TO ALL CLAIMANTS OR BENEFICIARIES CONFORMS TO THE LIMITATION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed prospectively to apply only to causes of action for wrongful death that arise on or after the effective date of this Act and may not be applied or interpreted to have any effect on or application to causes of action for wrongful death that arise before the effective date of this Act.

SECTION 2: 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1997.

May 22, 1997

The Honorable Thomas V. Mike Miller, Jr.