

# Commercial Litigation Insights: Revised Airline Liability Limits under Montreal Convention Take Effect on December 28, 2024

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Airlines operating international routes to and from Canada are governed by the idiosyncratic set of liability rules set out in the [Montreal Convention](#)<sup>[1]</sup>, which is incorporated into the domestic law of Canada by way of the [Carriage by Air Act](#)<sup>[2]</sup>

Entering into force in 2003, the *Montreal Convention* seeks to achieve uniformity across its 140 signatory countries on the upper limit of damages that may be recovered against airlines for: (i) passenger death/bodily injury, and (ii) delay/destruction/loss of baggage and cargo.<sup>[3]</sup>

Every five years, the [International Civil Aviation Organization](#) (ICAO) reviews the limits of liability under the *Montreal Convention* to determine whether they should be adjusted for inflation.<sup>[4]</sup> Earlier this year, ICAO implemented an increase to the limits of 17.9%, effective December 28, 2024, as follows:

Type of Damage	Current Limit in Special Drawing Rights (SDR) <sup>[5]</sup>	Revised Limit in SDR
Death or bodily injury	128,821 (CA\$238,897)	151,880 (CA\$281,660)
Delay in passenger transport	5,346 (CA\$9,914)	6,303 (CA\$11,688)
Destruction, loss, damage, or delay of baggage	1,288 (CA\$2,388)	1,519 (CA\$2817)
Destruction, loss, damage, or delay of cargo	22 (CA\$41) per kilogram	26 (CA\$48) per kilogram

In effect, when the *Montreal Convention* applies to a claim, strict liability is the rule up to the ICAO-prescribed limit. However, when advancing claims against airlines, plaintiffs routinely seek more than the limit in cases of bodily injury or death since they may be able to break the *Montreal Convention* limits where the carrier cannot prove that the loss was not due to its negligence or that a third party's negligence was the sole cause of the damages.<sup>[6]</sup>

The revised limits do not alter the types of damages that are recoverable under the *Montreal Convention*. For instance, Article 17 allows recovery for “bodily injury” only and not for purely mental or psychological injuries,<sup>[7]</sup> and Article 29 prohibits recovery of punitive, exemplary, or any other non-compensatory damages. Further, despite the *Montreal Convention* liability framework being one of strict liability up to the limits of liability, plaintiffs must still prove their damages through evidence as they would in other civil claims.

Finally, although the *Montreal Convention* applies only to international carriage by air, section 23(1) of the [Air Passenger Protection Regulations](#)<sup>[8]</sup> provides that the same limits apply in respect to the destruction, loss, damage, or delay of domestic baggage carried within Canada.

Airlines and their insurers should be prepared to account for the revised limits in their assessment of claims and litigation risk.

Moreover, they should amend their passenger rules tariffs filed with the Canadian Transportation Agency to reflect the new limits.

***The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.***

[1] *Convention for the Unification of Certain Rules Relating to International Carriage by Air*, done at Montreal, on May 28, 1999. The *Montreal Convention* provides a uniform set of rules governing damages liability for international air carriers and provides a limitation of carrier liability.

[2] *Carriage by Air Act*, R.S.C., 1985, C. C-26.

[3] The *Montreal Convention* does not apply to carriage by air between two points in the same country.

[4] *Montreal Convention*, Article 24(1).

[5] A unit of account defined by the International Monetary Fund.

[6] *Montreal Convention*, Article 21.

[7] *Chau v. Delta Air Lines Inc.*, [2003] O.T.C. 945 (SC) at para 14.

[8] Air Passenger Protection Regulations (SOR/2019-150) under the [Canada Transportation Act](#), S.C. 1996, c. 10.

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