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Congress Set to Hike \$200M Amtrak Accident Payment Cap

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Lawyers representing passengers injured in May's Amtrak train derailment in Philadelphia commended an agreement reached by members of Congress on Tuesday to raise the compensation limit for passengers from \$200 million to \$295 million.

The decision to up the damages cap was reached as part of a deal struck over the \$305 billion highway funding bill, the Fixing America's Surface Transportation (FAST) Act. The bipartisan agreement was reached by members of Congress at a conference held by the Senate Committee on Commerce, Science, and Transportation. However, the legislation is still awaiting final votes from both the House and the Senate. Federal transportation funding is set to expire Friday.

While the \$95 million bump was deemed a cost-of-living increase to the \$200 million railroad accident cap established in 1997, Robert Mongeluzzi, an attorney representing injured passengers, said at a press conference in Philadelphia on Wednesday that the decision was "a significant achievement from a gridlocked Congress." The

bill provides for an automatic cost-of-living increase every five years.

Mongeluzzi added the extra money was badly needed, noting that some of the passengers' medical bills have surpassed \$2 million each in the six months since the accident.

Mongeluzzi's firm, Saltz Mongeluzzi Barrett & Bendesky, and Kline & Specter, another Philadelphia-based firm, represent 28 of the injured passengers who filed suit in federal court, including the families of two who died.

The May 12 derailment of Train 188 in the Port Richmond section of Philadelphia left more than 200 people injured and eight dead. At the time of the derailment, the train had been traveling around a curve at roughly 100 mph—twice the speed limit for that section of rail. Amtrak has admitted fault in the accident.

All of the approximately 60 cases stemming from passenger injuries have been consolidated into a multidistrict litigation in the U.S. District Court for the Eastern District of Pennsylvania, overseen by U.S. District Judge Legrome Davis. The cases were filed by passengers from New York, Maryland, New Jersey and Washington, D.C., in

addition to those from Pennsylvania.

Kline & Specter co-founder Thomas R. Kline said that while the increased cap was not a perfect solution, "it will provide a measure of justice which could not be achieved in its 1997 form."

Both Kline and Mongeluzzi agreed the issue of railroad accident compensation would have never returned to the congressional table had it not been for the derailment.

Kline said the bill was met with "significant resistance" by Amtrak and regional rail organizations. Amtrak's attorney, Yuri Brunetti of Landman Corsi Ballaine & Ford, declined to comment.

Kline added that while Amtrak may argue the passengers' injury claims may not be worth \$295 million altogether, potential punitive damages against the rail carrier will also be drawn from that figure.

Additionally, the attorneys touched on the issue of possible criminal charges against Train 188 engineer Brandon Bostian.

While the basis for any such charges would have to wait until the National Transportation Safety Board releases its report on the accident, Kline posed the question, if a person driving down a crowded street at over 100 mph injured and

killed multiple people, would that driver not be charged?

"This is not just about the transfer of money," Kline said, "it's about a measure of justice."

Bostian's attorney, Robert Goggin III of Keller & Goggin, did not return a call seeking comment.

Congress's agreement to boost the cap was the result of a push from lawyers and advocacy groups such as the American Association for Justice.

Charles "Chip" Becker of Kline & Specter was one of those providing legal and technical advice to advocates petitioning the government.

Becker said the subject was initially entangled in a debate between House and Senate members, in addition to the Commerce, Science, and Transportation Committee being caught in the crossfire between passengers' advocates and rail carriers.

Ultimately, Becker said, the looming expiration of federal transportation funding motivated members of Congress to work toward a speedy resolution.