

Unimarc Loses Appeal: Court Orders Compensation for Customer Injured in Escalator Accident

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The Appeals Court determined that Unimarc, by offering an escalator to its customers, assumed a "heightened duty of care," necessitating that it "adopt all necessary measures to prevent accidents or lessen their consequences."



Original article: [Unimarc pierde la apelación: Corte lo obliga a indemnizar a cliente por caída en escalera mecánica](#)

The [Appeals Court](#) of La Serena has rejected the appeal filed by Supermercados Rendic Hermanos S.A. (Unimarc), upholding the ruling that requires the supermarket to compensate a customer who suffered an injury in February 2023 after falling on an escalator in its Ovalle store, resulting in a fractured right arm.

The second panel of the appellate court—consisting of Minister Carlos Jorquera Peñaloza, judicial prosecutor Pilar Aravena Gómez, and attorney member Jorge Fonseca Dittus—not only dismissed the supermarket chain’s arguments but also increased the moral damages compensation from the initially set amount of \$5,000,000 by the Local Police Court of Ovalle to \$10,000,000. However, the court exempted the company from bearing the legal costs of the process.

“Unlike the arguments presented by the appellant, this appellate court has arrived at the conviction that the first-instance court conducted a proper assessment of the evidence presented according to the rules of sound criticism. Indeed, it is established in the records that the consumer suffered an accident inside the defendant’s commercial establishment, specifically on the escalator connecting the shopping area to the parking lot, which was evidenced by the type of injuries caused by the accident (...), that detail the injuries suffered (fracture of the right proximal humerus with a split of the humeral head), the emergency care received, and subsequent treatment,” the ruling states.

Heightened Duty of Care and Signs of Maintenance Neglect

In its ruling, the court determined that Unimarc, by providing an escalator for customers to navigate between different levels of the store, assumed a “heightened

duty of care,” obligating itself to “adopt all necessary measures to prevent accidents or lessen their consequences.”

The court highlighted a crucial fact for its decision: “Although the appellant provided documentation regarding the maintenance of the escalator, it is significant that, according to the attachment to the appeal, no maintenance was conducted in February 2023, and that after the accident, the escalator was closed, which constitutes a relevant indication of deficiencies in the safety conditions.”

The court also criticized the company for “not providing any evidence regarding the state of the shopping carts made available to its customers, nor proving that these complied with the necessary safety conditions for use on escalators.”

Increase in Compensation: Physical and Psychological Suffering and Loss of Normal Life

In providing the substantial justification for increasing the compensation for moral damages from the original \$5,000,000 to \$10,000,000, the ruling conducts a detailed analysis of the damages suffered by the plaintiff.

“In this case, the three traditional components of moral damage are present: the *pretium doloris*, represented by the physical suffering arising from the fracture and the prolonged recovery process; the *préjudice d’agrément*, which translates into the loss of the normal and everyday life of the consumer, being unable to carry out daily, work, and recreational activities from the date of the accident to the present, affecting her personal autonomy and social integration; and the psychological damage, evidenced by the expert report that accounts for the decrease in her psychological aptitudes and the detriment to her mental health,” it stated.

The court concluded that the initial amount was “insufficient considering the particular circumstances of the case, the severity of the injuries suffered, the

plaintiff's advanced age, and the repercussions that the accident has caused her.”

\$10,000,000 for Moral Damage

The ruling was adopted with the dissent of attorney member Jorge Fonseca Dittus, who disagreed with the increase in compensation and supported maintaining the original amount of \$5,000,000 set in the first instance.

With this [ruling](#), it has been confirmed that Rendic Hermanos S.A. ‘Unimarc Tangué’ will be required to pay the customer the sum of \$10,000,000, which will be adjusted according to the Consumer Price Index and will accrue current interest from the potential delay in payment.

Fuente: [El Ciudadano](#)