

(Omitted)

### **Chapter 3      Judgement of this Court**

(Omitted)

### **Section 10      Details of individual loss theory (Issues from [11] to [14])**

(Omitted)

## **7      Concerning family No. 7 (Plaintiffs No. 17 through 20)**

### **1 Found facts**

Based on the said facts assumed, the said found facts, exhibits (KO<sup>1</sup>-C11 (still image 56), D17 through 20, E17 through 20, OTSU<sup>2</sup>-G113, plaintiff No. 17 testimony) and entire import of oral argument, the following facts are able to be found:

(1) Family member and living status before occurrence of the Accident, etc.

a) Plaintiff No. 17 (born on October 26, 1975) was born and raised in Iwaki City, was adopted as a child of his paternal grandmother on March 10, 1998, registered his marriage with plaintiff No. 18 (born on October 3, 1985) on October 14, 2006 and has plaintiff No. 19 (born on January 27, 2009) and plaintiff No. 20 (born on September 30, 2010) as the eldest son and the second son, respectively.

b) The father of plaintiff No. 17 was running a Japanese-style restaurant with an attached inn as a family business in Onahama, Iwaki City<sup>3</sup> and the land and building thereof, which doubled as a domicile for family, was owned by the said grandmother. The said inn was located right beside the sea and featured dishes of local fish and seafood.

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<sup>1</sup> Commonly speaking, in Japanese procedure, to identify evidences provided by the parties, “KO” means that the evidence was submitted by the plaintiff; for example, “KO-3” means that the evidence is the number three of the evidence provided by the plaintiff.

<sup>2</sup> On the contrary to the footnote 1 above, “OTSU” means that the evidence was submitted by the defendant.

<sup>3</sup> This place is outside the evacuation area after the Fukushima Accident.

From a young age, plaintiff No. 17 was raised as a son destined to succeed the family business of the said inn and attended a cooking college. Then he worked at a Japanese-style restaurant managed by one of his parents' friends for about 12 years to gain skills as a professional cook.

The father of plaintiff No. 17 died suddenly in December 2010. Plaintiff No.17 immediately moved back to Iwaki City, was about to resume his usual business of the inn in earnest in March 2011 and worked together with plaintiff No. 18 to support his grandmother.

If plaintiff No. 17 succeeded the said inn, he would be the 4<sup>th</sup> generation thereof, which allows the inn to be named with the word of "long-established". Therefore, he was thinking to appeal such a fact as the inn's additional feature.

Plaintiff No. 17 intended to restructure the said inn as the first long-established inn in Onahama to have a fulfilling life together with his family, grandmother and relatives, while he took an extra job at a pachinko parlor (KO-E17-3) because revenue from the operation of the said inn would not be enough to secure stable revenue.

## (2) Background to evacuation, etc.

a) Plaintiff No. 17 increased his concerns after the occurrence of the Accident because of the fact that areas subject to evacuation orders or orders of indoor evacuation by the defendant Japanese Government had been expanded, and because he felt that explanations by the defendants had varied several times. The announcement by the defendant Japanese Government, namely, "there will be no immediate effect on health" gave him a concern that effects on health would eventually appear at a later stage. His friends and relatives of his wife also recommended evacuation. Further, he was advised that small children are more easily influenced by radioactivity and tried to prevent plaintiffs Nos. 18 through 20 from going outside. At the time of the Accident, plaintiff No. 19 was 2 years old and plaintiff No. 20 was 5 months old.

Plaintiffs Nos. 17 and 18 considered that plaintiffs Nos. 19 and 20 would be exposed to radiation if they would keep staying in Iwaki City, and decided to evacuate to Gunma Prefecture where there was the parents' home of plaintiff No. 18.

b) The grandfather of plaintiff 18 was also living in Iwaki City. Therefore, 13 persons in total including the grandmother and relatives of plaintiff No. 17 as well as the aforementioned grandfather left for Gunma Prefecture, only taking clothes of the children with them. Although they left Iwaki City around noon, they eventually arrived in Gunma Prefecture at night because of poor surface conditions of the expressway as well as traffic jams.

(3) Start of evacuee life, etc.

a) For a while after arrival in Gunma Prefecture, the plaintiffs belonging family No. 7 stayed at the house of the parents of plaintiff No. 18, or at a house of one of the friends of the father of plaintiff No. 18. On March 23, 2011, they moved to an apartment room on the 5<sup>th</sup> floor of a “hired apartment<sup>4</sup>” building introduced by the City. Because the room of the apartment was not furnished and had no heating appliances, they dined on the floor and stayed in the cold.

Because the grandmother had difficulties in walking up and down the stairs of the said hired apartment because of her age, she spent most of the time inside the room and eventually returned to the said inn at the end of the same month.

b) After the evacuation to Gunma Prefecture, plaintiff No. 17 could not find any job soon and returned to Iwaki City at the end of the same month to take a temporary job again (KO-E17-4). Therefore, he started coming to the said hired apartment every holiday. Every time when he left for Iwaki City, it was so hard for him to see plaintiff No. 19 crying over missing his father.

c) The defendant Japanese Government designated the caution zone and the planned evacuation zone, etc. on April 22 of the same year, but Iwaki City was not subject to any evacuation order, etc.

d) For a certain period of time from March of the same year, plaintiff No. 19 suffered from health problems. By facing such circumstances, plaintiff No. 17 considered that family members should live together. Then he decided to live in Gunma Prefecture and

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<sup>4</sup> This is not an evacuation shelter but an ordinary house, which rent is paid by the Japanese Government.

stopped his temporary job in Iwaki City. He moved as much furniture as possible, including the refrigerator, etc. from the house in Iwaki City to the apartment in Gunma Prefecture in May of the same year.

It was a tough choice for plaintiff No. 17 to evacuate to Gunma Prefecture, leaving his grandmother who had been back to Iwaki City. Therefore, after he moved to Gunma Prefecture, he worried about her and sometimes thought about even divorcing plaintiff No. 18 to return to Iwaki City to take care of his grandmother.

e) Plaintiff No. 17 finally found a job at a restaurant and plaintiff No. 18 also started working part-time. However, they could not make their life easy. Plaintiff No. 19 regained his health in May of the same year and started going to a childcare facility. But he still had mental problems at times such as bursting into tears.

f) Plaintiff No. 17 came to know that a dining bar in the Tokyo area, at which his younger brother was working, was looking for an employee. After worrying for some time, he concluded that he had no choice but to take the job to continue his life. Then, around the 20<sup>th</sup> of the same month, he moved to his brother's house in Kawaguchi City, Saitama Prefecture and started working at the dining bar in Tokyo. From February 1, 2012 he rented a flat in Kawaguchi City (of KO-E17-2). Although he stayed with his family on weekends, plaintiffs Nos. 19 and 20 always had sad feelings whenever he left for the flat in Kawaguchi City. Plaintiff No. 17 spent a long time apart from plaintiff No. 20 and could not watch his growth, which gave him a regrettable feeling.

g) While plaintiff No. 17 continued the job, he obtained a forklift operator's license, aiming for a life with his family all together. In March 2013, he resigned from the job in the Tokyo area, and started working at a job in a warehouse in Gunma Prefecture. The job sometimes required him to start working as early as 5 o'clock in the morning or to stay working as late as 12 o'clock midnight.

(4) Continuation of evacuation life or returning home, etc.

Because effects of radioactivity on plaintiffs Nos. 19 and 20 are unpredictable and plaintiff No. 17 does not want to have later regrets, he considers that he and his family should not return to Iwaki City in view of such information that stable iodine tablets are publicly distributed in Iwaki City to enable the people take the tablet whenever instructed

and children in childcare facilities and elementary schools are ordered to carry radiation counters and to refrain from outdoor activities.

(5) Matters relating to discontinuation of free provision of housing, etc.

Plaintiff No. 17 worried about the fact that the duration of rent charge exemption for the said hired apartment is uncertain.

The rent charge exemption of the said hired apartment was to be renewed year by year but the duration of the free rent was uncertain. Under such circumstances, Fukushima Prefecture decided on June 15, 2015 to end the provision of hired apartments to voluntary evacuees at the end of March 2017.

(6) Feelings, etc. of the plaintiffs belonging to family No. 7

Plaintiff No. 17 was involved in the Accident while he was almost unable to start any operation of the inn, which was his family business. He is still disconsolate about the fact that the business, on which he was going to risk his life, has been intercepted.

Plaintiff No. 17 was forced to live away from his grandmother living in Iwaki City, and also to live away from his children for some time. Under the current circumstances where he is an evacuee, he is not able to operate the inn and have enough time to spend with plaintiffs Nos. 19 and 20, which, he thinks, would be possible if he were staying in Iwaki City.

(7) Exposed dose inspection, etc.

The result of exposed dose inspection of the plaintiffs belonging to family No. 7 did not show a dose level that will affect their health.

(8) Money already paid by defendant TEPCO

The amount of money which the plaintiffs belonging to family No. 7 have received from defendant TEPCO as payment in relation to the claims made under this case is forty thousand yen (¥40,000) each to plaintiffs No. 17 and 18 and two hundred forty thousand yen (¥240,000) each to plaintiffs Nos. 19 and 20 (as shown in the attached

list relating to affirmative defense of payment).

(9) Reasons why the amount of money received from defendant TEPCO are considered to be not enough

Plaintiffs belonging to family No. 7 had no choice but to evacuate, if they considered the hazards on health. Therefore, such a small amount of compensation is not agreeable, if the reason is that the Onahama area is outside the areas of evacuation order as a consequence of boundaries that were designated by the defendant Japanese Government.

2 Concerning the party's allegation and the assessment of exhibits regarding the facts found in 1 above.

(1) Each of the statements made by plaintiffs Nos. 17 through 20 (KO-D17 through 20 and E17 through 20) and the testimony made by plaintiff No. 17 are natural and reasonable.

(2) Concerning the allegation by defendant TEPCO

Concerning the point that defendant TEPCO mentioned the possibility of plaintiff No. 17 passing the area of high radiation dose without receiving information on areas of which radiation dose was expected to increase, the point is reasonable though plaintiff No. 17 alleged that areas of high radiation dose were not specifically stated.

In addition to the above, defendant TEPCO alleged that in the testimony of plaintiff No. 17 he risked his life on the succession of business of the said inn was unbelievable.

However, first of all, as for the fact that plaintiff No. 17 gained skills of a professional cook after graduation from a cooking college, and the fact that he returned to Iwaki City together with plaintiffs Nos. 18 through 20 soon after the death of his father, they are specifically stated and alleged, and no unnatural facts are found therein. Therefore, it is able to be considered reasonable. Because these facts are in conformity with the part of the statement made by plaintiff No. 17, of which credibility was attacked by defendant TEPCO, the credibility of the said part of the statement is considered

affirmative.

Although defendant TEPCO denies the loss of regular vocation and loss of home of plaintiff No. 17, it is not able to be adopted because it is not reasonable in consideration of the said found facts.

(3) The allegations of defendant Japanese Government are same in intent as those of the above allegation of defendant TEPCO. Therefore, the charge thereto is also the same.

### 3. Concerning the claim of plaintiffs belonging to family No. 7

(1) Air radiation dose rate at the time of evacuation in Iwaki City, where the said inn was located and the life of the plaintiffs belonging to family No. 7 was based at the time of the Accident, was higher than 0.23  $\mu$ Sv per hour (Otsu-G113). Therefore, according to the preliminary calculation of integrated dose indicated by the Nuclear Energy Council of the aforementioned certification, the conditions in the city are able to be considered, as an application of ICRP Recommendation, to require preventive measures by various voluntary efforts. It is also understandable that the plaintiffs were concerned about health damage due to radiation exposure because plaintiffs Nos. 19 and 20, who were still young and sensitive to radioactivity, were included in family members. In addition to the above, in view of the fact that plaintiff No. 17, who was raised as the 4<sup>th</sup> generation of the said inn and spent many years to gain the professional skills as a cook, was forced to abandon the expected succession of the inn business by the release, etc. of radioactive materials into the sea, which provides fresh fish and seafood as the basis of the features of the inn, and the fact that they were provided with environment, in which he and his family were accepted as evacuees in the evacuation site, the decision of the plaintiffs belonging to family No. 7 to evacuate are able to be considered reasonable and have a proximate cause with the Accident.

(2) According to the found facts of the above 1, by the Accident, the right of a quiet life (interests of not being exposed to fear and insecurity of radiation exposure, personality development rights, freedom of residence relocation (in addition to this, freedom to choose occupation for plaintiffs Nos. 17 and 18) and inner restful emotion) of plaintiffs belonging to family No. 7 was infringed and suffered mental distress.

(3) By the Accident, plaintiff No. 17 lost his job of a cook and eventually the business to

run the inn, for which he spent many years risking his life to gain the professional skill, and was put in a tough environment where he from time to time lived apart from his family that forced him to live away from his wife and children in the course of evacuation. Thus he is considered to have suffered mental distress.

Plaintiff No. 18 is also considered to have suffered mental distress by living with her husband put under such circumstances, by being put in tough environment in the course of evacuation and by being forced to live apart from her family.

(4) It is considered reasonable that the amount of mental damage, which is commensurate with mental distress suffered by plaintiffs Nos. 17 and 18 in relation to the infringement of the said rights and interests due to the Accident, shall be seven hundred thousand yen (¥700,000) for plaintiff No. 17 and three hundred thousand yen (¥300,000) for plaintiff No. 18 in consideration of all the facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members and friends, etc., and other factors such as age and gender, and the degree of accusable behavior<sup>5</sup> of defendant TEPCO.

(5) We found that Plaintiffs Nos. 19 and 20 are considered to have suffered mental distress by being put in a tough environment in the course of evacuation and by being forced to live a dual life where they lived away from their father, namely, plaintiff No. 17.

However, the amount of mental loss, which is commensurate with distress suffered by plaintiffs Nos. 19 and 20 in relation to the infringement of the said rights and interests due to the Accident, is not able to be considered to exceed the said each amount that has already been paid by defendant TEPCO, even if all facts that appeared in this case such as specific contents and the extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members, and, other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO are taken into consideration.

As stated above, the claims by plaintiffs Nos. 19 and 20 have no good reason and both have to be dismissed.

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<sup>5</sup> Generally speaking, when deciding the amount of mental and suffering, Japanese courts consider the degree of accusable behavior.

(6) Based on the above considerations, as for the claim of plaintiffs Nos. 17 and 18 to defendant TEPCO, it is reasonable to the extent that each of the aforementioned mental loss will be deducted by each of the said already paid amount and added by the amount of attorney's fee with interest of 5% per annum under the Civil Code, on the amount after such deduction and addition.

a) Plaintiff No. 17

¥700,000 - ¥40,000 + ¥70,000 = ¥730,000

b) Plaintiff No. 18

¥300,000 - ¥40,000 + ¥30,000 = ¥290,000

(Omitted)

### **30 Concerning family No. 30 (plaintiffs Nos. 79 and 80)**

#### **1 Found facts**

Based on the said facts assumed, the said found facts, exhibits (KO-D79, 80, E79, 80, plaintiff No. 80 testimony) and entire import of oral argument, the following facts are able to be found:

(1) Family member and living status before occurrence of the Accident, etc.

a) Plaintiff No. 79 (born on April 13, 1966) was born and raised in Futaba-machi, registered his marriage with plaintiff No. 80 (born on November 5, 1965) on November 9, 1992 and was living in Futaba-machi in a 2-storied wooden house owned by Futaba-machi Town (hereinafter the house owned by Futaba-machi Town is referred to as "Home" for the purpose of No. 30).

b) Plaintiff No. 79 visited his parent's home approximately 300m from the Home to check the conditions of his bedridden grandmother every morning. Many relatives of plaintiff No. 79 were also living in the neighborhood of Futaba-machi and were exchanging visits

often with each other.

Because the Home was located nearby the sea, plaintiff No.79 enjoyed surfing together with his friends since his youth.

Plaintiff No.80 was born and raised in Tomioka-machi, and, after the marriage with plaintiff No. 79, has been living at the Home. Therefore, she had a feeling that she had developed a deep relationship with people living in the area.

(2) Background to the start of evacuation, etc.

a) When the Earthquake occurred on March 11, 2011, plaintiff No. 79 was working in the Nuclear Power Plant, but returned to the Home at around 3 p.m. on the same day. Then he and plaintiff No. 80 went out to look for the father of plaintiff No. 80 (born on May 31, 1939, hereinafter occasionally referred to as “father-in-law” in No. 30) who had not been in contact. There was a written message left in the house of the father-in-law mentioning the evacuation spot, but he was not found there. They asked and searched around but returned home at around 11 p.m. without finding him.

By that time, defendant Japanese Government had already designated the area, in which the Home was located, as an indoor evacuation zone, but plaintiffs belonging to family No. 30 did not know about such designation.

b) In the morning on the 12<sup>th</sup> of the same month, defendant Japanese Government designated the area, in which the Home was located, as the areas of evacuation orders.

Although an evacuation order by the town was announced through the public notice radio at around 7 a.m. on the same day, plaintiff No.79 expected that they would be able to come back home in a few days, and he and plaintiff No. 80 evacuated in a twosome by his car having only wallet and two each of blanket and sweater with them. Plaintiff No. 79 tried to refuel the car on his way for evacuation but there was no open gas station in Futaba-machi. He found an open gas station in a neighboring town and got some gasoline. Then they proceeded to an elementary school in Kawamata-machi, which was the designated evacuation center, and evacuated to the gymnasium of the school. At the said evacuation center, they were not able to sleep well because it had no partition wall nor facility for washing face or brushing teeth and young people were staying and

talking up late at night, though some meals were provided.

Plaintiff No. 79's understanding was that he would be able to return to Home after several days of his stay at the evacuation center, because of a repeated statement of politicians on TV news, such as "The purpose of evacuation is just to be on the safe side!"

c) On the next day after spending a night in the evacuation center, plaintiff No. 79 went to the place for battery charge to get the phone recharged and left the place for a while with his cell phone and its battery charger unattended. When he returned to the place, he found that his battery charger had disappeared, and he got a very bad feeling.

Under such circumstances, he talked to plaintiff No. 80 and decided to move to the house of plaintiff No. 80's aunt in Mito City, Ibaraki Prefecture on the 14<sup>th</sup> of the same month.

Plaintiffs belonging to family No. 30 rented one of the rooms of the said aunt's house. However, it forced them to pay extra attention and they spent most of the time without going out of the room. After a while, on the 22<sup>nd</sup> of the same month, they discovered the father-in-law's whereabouts, which was unknown until then, and started to live together in the same place. However, this forced them to pay even more attention and gave them uncomfortable feeling. They did not know when they would be able to return to the Home, either.

d) Plaintiff No. 79 found that one of the rooms of the apartment, to which his sister's family evacuated, was available for free rent. Then the three evacuated to the said apartment on the 24<sup>th</sup> of the same month.

(3) Zoning Designation, etc.

Defendant Japanese Government designated all areas within a 20km radius from the Nuclear Power Plant as caution zones on April 22, 2011. Thus whole area in Futabamachi has been designated as the caution zone.

(4) Start of evacuee life, etc.

a) In order to work at the Nuclear Power Plant, plaintiff No. 79 is living in a dormitory in

Fukushima Prefecture of his employer on weekdays and returns back to Gunma Prefecture where plaintiff No. 80 and the father-in-law are living on weekends.

b) Plaintiff No. 80 got or bought clothes from her friends, Japanese-style bedding and cooking pans from relatives in Mito City, blankets, curtains, an electric carpet and used TV set and cooking stove, etc. from the landlord of the apartment in Gunma Prefecture. But she still went out almost every day for shopping of necessities to cover shortages.

(5) Continuation of evacuee life

a) Plaintiff No. 80 is living with her father in the same house, and her elder sister and younger sister and their husbands are living in Gunma Prefecture.

b) After August 2011, plaintiffs belonging to family No. 30 return to their Home in Futaba-machi in protective clothing once every several months under the temporary access arrangement. Every time they visit there, they see their Home and neighboring area being without any sign of life and devastated by small animals. There are many objects remaining in the Home. Especially the second floor is in an unmanageable and moldy condition (KO-E79-4) because a closet located near the entrance has fallen over due to the Earthquake and is unable to be removed only by plaintiffs belonging to family No. 30

c) Every time when plaintiffs belonging to family No. 30 go out of the caution zone after the temporary access, a document that shows exposed dose during the visit is delivered to them (KO-E79-2, 79-3, 80-2, and 80-3).

(6) On May 28, 2013, defendant Japanese Government reviewed and altered the designation of the area where the Home is located from the caution zone to difficult-to-return zone.

Exemption of rent charge of the said apartment is continued for one year after April 2016.

Because the Father-in-law purchased a used house in Gunma Prefecture (KO-E80-4 and 5), plaintiffs belonging to family No. 30 decided to move to the said house in October of the same year.

(7) Feelings, etc. of plaintiffs belonging to family No. 30

a) After plaintiff No. 79 left his hometown area, which he had never left, he has been feeling a deep sense of loss. He is able to see plaintiff No. 80 only on weekends and both of them have been forced to have a restless life.

Plaintiff No. 79 has an impression that defendant Japanese Government has never shown a clear attitude, therefore, he has been in such a situation that he is not able to think seriously about the place to live in the future.

b) Plaintiff No.80 has experienced hardships in the course of evacuee life and is still feeling stress even after leaving the evacuation center. Living away from her relatives and friends, whom she is rarely able to see, she has lost her motivation to enjoy even a hobby. She has been feeling uneasy because, in view of the fact that the threshold of radiation dose in relation to the operation of the Nuclear Power Plant has been raised after the Accident, she wants plaintiff No. 79 to quit the job but he is not in a position to be able to quit the job so soon.

(8) Inspection of radiation dose, etc.

Plaintiff No. 79 is working at the Nuclear Power Plant and is managed so that his exposed dose will not exceed the threshold.

The result of exposed dose inspection of plaintiffs of family No. 30, which was conducted after the Accident, showed a value that does not affect human health.

(9) Money already paid by defendant TEPCO

The amounts of money which plaintiffs belonging to family No. 30 have received from defendant TEPCO as reimbursement in relation to the claims made under this case are one million four hundred twenty thousand yen (¥1,420,000) for plaintiff No. 79 and two million seven hundred twenty thousand yen (¥2,720,000) for plaintiff No. 80 (as shown in the attached list relating to affirmative defense of payment).

In addition, defendant TEPCO has declared that, if plaintiffs belonging to family

No. 30 would make a direct petition, they are prepared to pay an additional amount of thirteen million one hundred thousand yen (¥13,100,000) to plaintiff No. 79 and eleven million eight hundred thousand yen (¥11,800,000) to plaintiff No. 80 as reimbursement in relation to the claims made under this case (an entire import of oral argument: total amount of fourteen million five hundred twenty thousand yen (¥14,520,000) for each plaintiff belonging to family No. 30).

(10) Reasons why the amount of money received from defendant TEPCO is considered to be not enough

Since the Accident, plaintiffs belonging to family No.30 have been forced to experience endless and severe hardships and their mental difficulties will not be settled down unless they are able to return back to the Home. Therefore, they consider it is not convincing that they should swallow such hardships by receiving the compensation, which defendant TEPCO is prepared to pay.

2 Concerning the assessment of the party's allegation and exhibits regarding the facts found in the above 1

(1) Every statement of facts made by the plaintiffs belonging to family No. 30 (KO-D79, 80, E79, 80) and the statement made by plaintiff No. 80 are natural and reasonable.

(2) Concerning the allegation by defendant TEPCO

Defendant TEPCO alleges the points that plaintiff No. 79 is working in the same manner as the one prior to the Accident and that his relatives lives in Gunma Prefecture. These points are reasonable and are able to be adopted.

(3) The allegation by defendant Japanese Government is the same in intent as the said allegation of defendant TEPCO and is able to be adopted.

3. Concerning the claim of the plaintiffs belonging to family No. 30

(1) According to the found facts of the above 1, the Accident infringed the right of a quiet life (interests of not being exposed to fear and insecurity of radiation exposure, personality development rights, freedom of residence relocation and inner restful

emotion) of plaintiffs belonging to family No. 30 and caused mental distress to them.

(2) By the Accident, especially plaintiff No. 79 was put in severe conditions in the course of evacuation, was not able to return to the town where he was born and raised, was forced to live away from his family and lost close relationships with his family and friends. Thus, he is considered to have suffered from mental distress.

It is considered reasonable that the amount of mental damage, which is commensurate with mental distress suffered by plaintiff No. 79 in relation to the infringement of the said rights and interests due to the Accident, shall be two million five hundred thousand yen (¥2,500,000) in consideration of all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO.

(3) From the Accident, plaintiff No. 80 was put in severe conditions in the course of evacuation, was not able to return to the town where she was born and raised, was forced to live away from her family and lost close relationships with her family and friends. Thus, she is considered to have suffered from mental distress.

However, the amount of mental loss, which is commensurate with mental distress suffered by plaintiff No. 80 in relation to the infringement of the said rights and interests due to the Accident, is not able to be considered to exceed the said amount that has already been paid by defendant TEPCO, even if all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO are taken into consideration.

As stated above, the claim by plaintiff No. 80 has no good reason and has to be dismissed.

(4) As stated in 1 (9) above, the amount that plaintiff No. 79 has received from defendant TEPCO as reimbursement in relation to the claim made under this case is one million four hundred twenty thousand yen (¥1,420,000).

Because defendant TEPCO has declared that, if plaintiff No. 79 would make a direct petition, they are prepared to pay an additional amount of thirteen million one hundred thousand yen (¥13,100,000), it is able to be considered that the said claim is in a situation where it shall be dismissed if plaintiff No. 79 receives the said amount, namely, thirteen million one hundred thousand yen (¥13,100,000).

(5) Based on the above considerations, as for the claim of plaintiff No. 79 to defendant TEPCO, it is reasonable to the extent that the aforementioned mental loss will be deducted by the said already paid amount and added with interest of 5% per annum, which is predetermined by the Civil Code, on the amount after such deduction.

¥2,500,000 - ¥1,420,000 = ¥1,080,000

(Omitted)

#### **40 Concerning family No. 40 (plaintiff Nos. 114 through 118)**

##### 1 Found facts

Based on the said facts assumed, the said found facts, exhibits (KO-D114 through 118, E114 through 118, G1, plaintiff No. 115 testimony) and entire import of oral argument, the following facts are able to be found.

(1) Family member and living status before occurrence of the Accident, etc.

a) Plaintiff No. 114 (born on May 19, 1973) registered his marriage with plaintiff No. 115 (born on May 31, 1975) on February 14, 1996 and was living in a newly built house in Kawauchi-mura (KO-E114-2) from October 21, 2010 together with his seven family members, namely, plaintiff No. 116 who is his eldest son (born on July 15, 1996), plaintiff No. 117 who is his eldest daughter (born on September 5, 2000) and the parents and younger sister of plaintiff No. 114. At that time, he was paying monthly home mortgage of approximately sixty-eight thousand yen (¥68,000).

Plaintiff No. 120 who belongs to family No. 41 is the younger sister of plaintiff No. 114. The said younger sister who was living with plaintiff No. 114 is Plaintiff No. 112's sister.

b) There are many persons that have the same family name as that of plaintiff No. 114 in Kawauchi-mura and many of his relatives were also living there. He was well-acquainted with neighbors and there were just few people who do not know him. Therefore, he had a feeling that he was watched by neighbors and the people in the village were taking care of each other in a family-like atmosphere. Most of his close friends grew up in Kawauchi-mura spending time together since their young age. The place of employment of plaintiff No. 114 was in Kawauchi-mura. He was working as a site supervisor since March 1998 and found his job rewarding.

Plaintiff No. 115 was born in Iwaki City and spent most of her daily life in Kawauchi-mura after her marriage. She built a firm relationship with the parents of children of the same or similar age through Kids' Club and PTA, and local residents had a close relationship each other through various events. The village had an environment in which every resident knew each other, and the relationships of neighbors were as close as they lend and borrow vegetables or seasonings, etc. each other.

Plaintiff No. 115 was engaged in preparation of school-provided lunch at a junior high school in Kawauchi-mura for many years. The job was rewarding and conversations with her colleagues were pleasant. Therefore she wished to continue the job for a long time.

Kawauchi-mura had only one elementary school, junior high school and senior high school. Every grade had only one class with only 20 pupils or so. All friends of plaintiffs Nos. 116 and 117 were friends from childhood.

Plaintiff No. 116 was treated gently by neighbors. When he was in the 2<sup>nd</sup> grade in elementary school, he started playing baseball. He joined the baseball team in junior high school and the team came third in the prefectural tournament when he was in 2<sup>nd</sup> grade. The selected baseball team of the district, to which he belonged as a player, also won first place in the prefectural tournament. He also devoted himself to training in baseball every day in the extracurricular activities of the junior high school in hopes of winning first place in the prefectural tournament.

Plaintiff No. 117 had a good and family-like relationship with his close friends in the neighborhood such as eating supper and playing at the home of each other.

(2) Background to the start of evacuation, etc.

a) On March 12, 2011, because of the Earthquake, people living near the Nuclear Power Plant evacuated to Kawauchi-mura which is 20km away therefrom. However, because of the explosion of the Nuclear Power Plant thereafter, the whole of the village fell in a state of chaos. Thinking about evacuation, plaintiff No. 115 went out of the house to move his belongings. Therefore, he thought that he was exposed to radiation.

b) On the same day, the defendant Japanese Government designated areas within a 20km radius from the Nuclear Power Plant to be subject to evacuation order. The said home was located adjacent to the border.

c) In view of the fact that plaintiff No. 116 was fourteen years old and plaintiff No. 117 was ten years old, plaintiff No. 114 feared health damage by radiation and started evacuation by minivan, in which his family of four including his wife and two children as well as plaintiff No. 120 and plaintiffs Nos. 121 and 122 who are plaintiff No. 120's eldest and second daughters were boarded, having valuables and minimum clothing only with them. On that day, plaintiff No. 114 stayed overnight in the car in a parking lot in Koriyama City but was not able to sleep and became very anxious about the future.

d) Because gasoline was not being sold, plaintiff No. 114 was not able to drive very far and started feeling physically difficult to stay overnight in the car any longer. Therefore, they evacuated to the home of plaintiff No. 115 in Iwaki City by car on the 14<sup>th</sup> of the same month. However, the said home was also damaged by tsunami caused by the Earthquake and was not available for living. Then they returned again to Koriyama City and stayed overnight there in the car. Thereafter they evacuated to a facility in Sukagawa City. Plaintiffs Nos. 115 and 117 slept in the facility but plaintiffs Nos. 114 and 116 were not able to sleep there because there was no partition and took sleep in the car.

e) Thereafter the second explosion of the Nuclear Power Station occurred and plaintiffs belonging to family No. 40 evacuated on the 16<sup>th</sup> of the same month to Gunma Prefecture counting on their relative there. They stayed there for two weeks and, on the 28<sup>th</sup> of the same month, rented a room on the 4<sup>th</sup> floor of an old city-provided apartment in Gunma Prefecture to start their life.

Because the employer of plaintiff No. 114 had moved from inside of a 20km radius from the Nuclear Power Plant to the outside thereof and resumed their business, he returned to work at the beginning of April of the same year.

f) Plaintiff No. 115 lost her job because the work place itself for preparation of school-provided lunch at junior high school was lost. Thus, she lost the income of approximately one hundred twelve thousand yen (¥112,000) per month.

(3) Zoning Designation, etc.

The defendant Japanese Government designated the area in which the said home is located as the emergency evacuation preparation zone on April 22, 2011.

(4) Start of evacuee life, etc.

a) Plaintiffs belonging to family No. 40 were total strangers in Gunma Prefecture and did not have any acquaintance.

b) When plaintiff No. 114 returned to work in Kawauchi-mura, he had no particular place to live yet. Therefore, he stayed at his friend's home and/or the house of the president of the company, for which he was working, to continue the work. Thereafter he moved to Koriyama City. Then he started staying either at the said home in Kawauchi-mura or in Koriyama City on weekdays and returned back to Gunma Prefecture in the evening on Saturdays. This forced him to get up at four in the morning on Mondays to go back to Kawauchi-mura. The parents of plaintiff No. 114 returned to the said home in Kawauchi-mura in or around May 2011.

Plaintiff No. 114 worried about the fact that he only had small amount of time to see his children. Although he had a strong desire to go to see them, it required substantial amount of money and made him suffer from fatigue and lack of sleep on Mondays. In addition, because of his worry about his family living apart from him, he had a feeling that he had difficulties in concentrating on his work. Furthermore, he had little experience in domestic matters and was not even able to prepare a meal. So he had no choice but to buy food at a convenience store or to dine out.

c) The grandfather of plaintiff No. 114 evacuated from Kawauchi-mura and lived together

in the said city-provided apartment in Gunma Prefecture from March 26 of the same year till March 2012. Plaintiff No. 115 took care of the said grandfather by doing meal preparation and washing, etc.

(5) Lifting of zoning designation, etc.

The defendant Japanese Government lifted the designation of the said emergency evacuation preparation zone on September 30, 2011.

(6) Continuation of evacuee life or returning home, etc.

a) During the evacuee life, plaintiff No. 115 noticed her pregnancy and wavered over the choice as to whether or not she should give a birth, in view of the fact that she was living as an evacuee and that she was living apart from plaintiff No. 114, as well as the influence of radiation exposure, etc.

Plaintiff No. 118 was born on July 27, 2012 as a second son of plaintiffs Nos. 114 and 115.

b) Plaintiff No. 114 was previously doing civil engineering work. As the work for decontamination increased after the Accident, he had an uneasy feeling about his health because of his job in Kawauchi-mura. On the other hand, he made an effort to restore the environment of Kawauchi-mura so that children would be able to live safely. However, regardless of repeated decontamination, radiation dose in the neighborhood of the said home was still relatively higher compared with the other areas. Because 80 to 90% of the area was covered by forests and most of the forests were not decontaminated, he had a fear that radioactive material would flow out therefrom whenever it would rain, even if the houses were decontaminated. He has doubt also about well water and has a strong fear about future health damage.

Whenever he sees the state of the Nuclear Power Plant shown in news reports, he thinks it will be critical if any severe aftershock occurs. Therefore, he considers that the conditions are far below the level that allows them to return if the fear about influence on children is taken into consideration.

Although it has been reported that substantial numbers of people returned to

Kawauchi-mura, he perceives that most of such people are elderly people.

c) It was reported that, after the Accident, there is only one elementary school child who once evacuated from Kawauchi-mura to the outside thereof but returned to Kawauchi-mura after the village's declaration of returning to village, and that the said child alone graduated from the school on March 23, 2015 and entered junior high school as the only new pupil while none of the eighteen classmates had come back to the village.

d) Plaintiff No. 115 has a painful feeling about the fact that, if people around her find that she is an evacuee from Fukushima Prefecture, she would be discriminated based on an assumption that she has received a large amount of money just like people from nearby areas of the Nuclear Power Plant, and she feel them with sorrow. Therefore, she is living without disclosing the fact that she is an evacuee as much as possible.

Plaintiff No. 117 went on to a senior high school in Gunma Prefecture in April 2016.

(7) Continuation of exemption of rent charge of hired apartment, etc.

The rent charge exemption of the said rented apartment was to be renewed every year but the duration thereof was uncertain. Fukushima Prefecture decided on June 15, 2015 to end the period of provision of rented apartments to voluntary evacuees at the end of March 2017.

(8) Feelings, etc. of plaintiffs belonging to family No. 40

a) Plaintiff No. 114 considers that plaintiffs Nos. 114 through 117 who were in Kawauchi-mura at the time of explosion of the Nuclear Power Plant have been exposed to radiation to a greater or lesser extent. There is a lot of information overflowing on TV, newspaper and internet, etc. such as comments of academic persons "a small amount of radiation dose will not cause any health damage" or "possibilities for future health damage such as cancer will increase", and he is not able to judge or verify the trustworthiness thereof. Under such circumstances, however, he is still very much concerned and worries about his children because he thinks that the possibilities for health damage will increase over time in the future.

He also has a feeling that the Accident has separated family members and has ruined all of the newly built houses as well as close relationship with the people in the neighborhood.

In addition, he feels very much hollowed out by the fact that he still continues the said mortgage payment of the house which is not available for living. He has somewhat separated feeling from his family because they are not living together, although he thinks about them every day.

b) Plaintiff No. 115 feels the life after evacuation to be a lonely one with a tenuous relationship with neighbors and the public administration, and sometimes has difficulties in sleeping in the night because of a feeling of insecurity about the future life.

Plaintiff No. 115 feels that she is frustrated by the loss of a job due to the Accident and has lost mental balance because of the stress of the evacuee life.

Plaintiff No. 115 feels pity for plaintiff No. 118, who is living away from his father, plaintiff No. 114, by seeing him looking around for his father by saying “Where is my dad?” She worries about the risk for a loss of an ordinary parent-child relationship and feels such a situation, where a child is grown up with its father only on weekends and understands it to be natural, is wrong. Plaintiff No. 115 is expecting to entrust plaintiff No. 118 to someone’s care to have a job again for the household finance, but she thinks it will further increase such pitiful feelings.

c) Plaintiff No. 116 has a feeling that the relationship with his friends has been deteriorated because only one or so out of his classmates in Kawauchi-mura is still living there and, even when the others come back home for summer festival on Bon holiday, it is difficult to find common topics to talk with friends whom he sees only once a year. The Accident ruined the dream of plaintiff No. 116 to win first place in the prefectural tournament and to go on to the senior high school that he has been longing for, and separated him from his friends. Plaintiff No. 116 feels very sad and does not know how he can express his anger due to such a feeling.

Plaintiff No. 116 transferred to another junior high school, where he had no friends, with an uneasy feeling. He experienced no hazing but often felt uncomfortable with teases and being laughed about with his accent. Worrying about the life with his

family and further education, he was troubled by a stomachache and was often teased about his gray hair that he got while a senior high school student.

Plaintiff No. 116 graduated from senior high school in 2015 but did not return to Kawauchi-mura and took employment staying at the said city-provided apartment as a base of his life. He desired to go on to university but abandoned considering the life of his family.

d) Like the situation of plaintiff No. 116, all friends of plaintiff No. 117 were friends from childhood. With close friends in the neighborhood, they had relationships as family friends and were eating supper and playing at each other's home. However, having lost all of them, she feels very sad and tough. The number of her classmates that are currently living in Kawauchi-mura is just three or four and, even when she sees friends that come back for the summer festival during the Bon holiday, it is difficult to find common topics to talk about with such friends whom she sees only once a year. Therefore, she feels that the relationships with her friends have deteriorated like Plaintiff No. 116.

Plaintiff No.117 transferred to elementary school, where she had no friends, with an uneasy feeling. She experienced no hazing but was hesitant to talk to at first because of a concern with her accent. She was also often teased about her rare family name and felt uncomfortable. When she was in 5<sup>th</sup> or 6<sup>th</sup> grade, she often suffered from stomachaches in the morning before going to school. After a competition of extracurricular activity (volleyball) of her junior high school on November 2, 2014, she suddenly experienced dizziness and ear buzzing and was diagnosed with sudden deafness on her right ear as a result of examination at a hospital on the 4<sup>th</sup> of the same month. Plaintiff No. 117 considers that life stress was one of the causes of the sudden deafness. Plaintiff No. 117 made a strong effort in volleyball that she started when she was in 1<sup>st</sup> grade of elementary school and won first place in the prefectural tournament when she was a junior high student. She hopes to go on to senior high school in Gunma Prefecture to continue playing volleyball but has a feeling of insecurity depending on the state of the life of her family.

(9) Inspection of radiation dose, etc.

Plaintiffs Nos. 114 and 115 had an inspection of radiation dose and were told that the results were within the safe level.

(10) Money already paid by defendant TEPCO

The amounts of money which plaintiffs belonging to family No. 40 have received from defendant TEPCO as reimbursement in relation to the claims made under this case are one million eight hundred twenty thousand yen (¥1,820,000) each for plaintiffs Nos. 114 and 115 and two million two hundred fifty thousand yen (¥2,250,000) each for plaintiffs Nos. 116 and 117 (as shown in the attached list relating to affirmative defense of payment).

(11) Reasons why the amount of money received from defendant TEPCO is considered to be not enough

Plaintiffs Nos. 114 and 115 have expended most of the money received from defendant TEPCO on living costs and consider that the said amount will never be satisfactory as mental loss. They consider that there is a substantial difference in the seriousness of mental burden and stress, etc. between the life in which a family is living together and the life in which family members have to live separately. In addition, although the said home in Kawauchi-mura is not within a 20km radius from the Nuclear Power Plant, it is located adjacent to the border of such a radius, and they consider that they have suffered from the same level of mental damage as that received by evacuees from, what is called, “difficult-to-return zone” or “restricted residence area” who were living near the Nuclear Power Plant. Therefore, they consider that the amount of compensation for plaintiffs belonging to family No. 40 is unreasonably small.

2 Concerning the assessment of the party’s allegation and exhibits regarding the facts found in above 1

(1) Every statement of facts of plaintiffs Nos. 114 through 118 (KO-D114 through 117, E114 through 118) and the statement made by plaintiff No. 115 are natural and reasonable.

(2) Concerning the allegation by defendant TEPCO

Defendant TEPCO denies reasonability for continuation of evacuation and alleges that plaintiffs Nos. 115 through 118 are in circumstances where they are able to return anytime to the said home in Kawauchi-mura in view of the fact that 100% of the scheduled decontamination in Kawauchi-mura has been executed (Otsu-G101).

However, as charged above, the right of a quiet life, which is an infringed interests under this case, has a nature that is not able to be restored to the original state once it is infringed while the infringement itself will not continue. In addition, about half of administrative areas in Kawauchi-mura were designated as evacuation area and the functions of village office were also transferred to outside of the village. Therefore, much local infrastructure was lost and many of the inhabitants had no choice but to evacuate therefrom. For example, it was pointed out that there was only one returned pupil out of all pupils of one class. Under such circumstances, even if plaintiffs Nos. 115 through 118 return to the village, it does not mean that they will be able to regain any of their quiet lives, lost jobs, environment or lives. In addition, as found above, Kawauchi-mura has a lot of mountainous land which is not subject to decontamination. Therefore, it is unavoidable that common and average people doubt about the effectiveness of decontamination even if 100% of the scheduled decontamination is executed. Furthermore, under the circumstances where it is presumed that plaintiffs Nos. 115 through 118 have established a certain level of living environment including personal relations through their lives as evacuees for some significant period of time after evacuation due to the Accident, it should be considered as a natural behavior even if they continue the lives as evacuees. If these facts are taken into consideration, there should be no significant difference in the amount of compensation for mental damage even if the conditions of the home of the previous lives have been restored to allow their return.

(3) The allegation by the defendant Japanese Government is same in intent as the said allegation of defendant TEPCO and the charge thereto is also same.

### 3. Concerning the claim of plaintiffs belonging to family No. 40

(1) According to the found facts of the above 1, the Accident infringed the right of a quiet life (interests of not being exposed to fear and insecurity of radiation exposure, personality development rights, freedom of residence relocation (in addition to this, freedom to choose occupation for plaintiff No. 115) and inner restful emotion) of plaintiffs Nos. 114 through 117 and caused mental distress to them.

However, plaintiff No. 118 was not born at the time of occurrence of the Accident. Therefore, his right of a quiet life is not able to be considered to have been infringed.

As stated above, the claim by plaintiff No. 118 has no good reason and has to be dismissed.

(2) Plaintiff No. 114 was forced by the Accident to evacuate from the house which was newly built five months before the Accident. He was put in a horrible environment in the course of evacuation and in a dual life where he lived alone away from his family. Thus, he lost his close relationship with his family and friends, and is considered to have had mental distress.

It is considered reasonable that the amount of mental damage, which is commensurate with mental distress suffered by plaintiff No. 114 in relation to the infringement of the said rights and interests due to the Accident, shall be three million yen (¥3,000,000) in consideration of all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members and friend, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO.

(3) Plaintiff No. 115 was forced by the Accident to evacuate and was put in terrible environment in the course of evacuation, such as losing her rewarding job and giving a birth in evacuee life. Thus, she lost his close relationship with her family and friends, and is considered to have had mental distress.

It is considered reasonable that the amount of mental damage, which is commensurate with mental distress suffered by plaintiff No. 115 in relation to the infringement of the said rights and interests due to the Accident, shall be five million yen (¥5,000,000) in consideration of all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found above, background to and living status during evacuation, situation with family members and friend, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO.

(4) Plaintiff No. 116 was forced by the Accident to evacuate and was put in terrible environment in the course of evacuation. Thus, he lost a life with his family and close relationship with his classmates, and abandoned his dream and goal. Therefore, he is considered to have suffered mental distress.

However, the amount of mental damage, which is commensurate with mental distress suffered by plaintiff No. 116 in relation to the infringement of the said rights and interests due to the Accident, is not able to be considered to exceed the said amount that has already been paid by defendant TEPCO, even if all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members and friends, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO are taken into consideration.

As stated above, the claim by plaintiff No. 116 has no good reason and has to be dismissed.

(5) Plaintiff No. 117 was forced by the Accident to evacuate and was put in terrible environment in the course of evacuation. Thus, she lost a life with her family and close relationship with her classmates and she is considered to have suffered mental distress.

The amount of mental damage, which is commensurate with mental distress suffered by plaintiff No. 117 in relation to the infringement of the said rights and interests due to the Accident, is not able to be considered to exceed the said amount that has already been paid by defendant TEPCO, even if all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the above, background to and living status during evacuation, situation with family members and friends, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO are taken into consideration.

As stated above, the claim by plaintiff No. 117 has no good reason and has to be dismissed.

(6) Based on the above considerations, as for the claim of plaintiffs Nos. 114 and 115 to defendant TEPCO, it is reasonable to the extent that each of the aforementioned mental damage will be deducted by each of the said already paid amount and added by the amount of attorney's fee with interest of 5% per annum, which is predetermined by the Civil Code, on the amount after such deduction and addition.

a) Plaintiff No. 114

¥3,000,000 - ¥1,820,000 + ¥120,000 = ¥1,300,000

b) Plaintiff No. 115

¥5,000,000 - ¥1,820,000 + ¥320,000 = ¥3,500,000

(Omitted)

#### **44 Concerning family No.44 (Plaintiffs Nos. 129 through 134)**

##### **1 Found facts**

Based on the said facts assumed, the said found facts, exhibits (KO-D129 through 134, E129 through 134, Otsu-E65, plaintiff No. 129 testimony) and entire import of oral argument, the following facts are able to be found:

(1) Family member and living status before occurrence of the Accident, etc.

a) Plaintiff No. 129 (born on November 26, 1983) registered his marriage with plaintiff No. 130 (born on April 11, 1983) on July 13, 2004 and was living in a single-family house in Namie-machi together with plaintiff No. 131 (born on January 26, 2005) who is his eldest son, plaintiff No. 132 (born on July 23, 2008) who is his second son and plaintiff No. 133 (born on November 26, 2009) who is his eldest daughter, and was paying a home mortgage.

Plaintiffs Nos. 91 and 92 are the parents of plaintiff No. 129 and were living in the same town. And plaintiff No. 93, who is the elder sister of plaintiff No. 129, was also living in the neighborhood.

b) Plaintiff No. 129 was raised in Namie-machi since he was four or five years old and worked at a restaurant in Futaba-machi as a cook for a period a little less than seven years with gross annual earnings of approximately three million yen (¥3,000,000). Plaintiff No. 129 also worked on Wednesdays, the regular holiday of the restaurant, to help the business of plaintiffs Nos. 91 and 92.

Plaintiff No. 130 lived in Tomioka-machi since she was 5 years old and moved

to Namie-machi when she was a senior high school student. Since then she was living in Namie-machi. At the time of the Accident, plaintiff No. 130 was carrying plaintiff No. 134 (born on May 6, 2011), the second daughter with plaintiff No. 129.

Plaintiff No. 131 was born and raised in Namie-machi and was scheduled to enter an elementary school in the same town.

(2) Background to evacuation, etc.

a) Because of the Earthquake, those who were living in the neighborhood such as plaintiff No. 129, plaintiff No. 130 and the parents, brothers and sisters of each of them (hereinafter referred to as “plaintiff No. 129 and others”) got together at the said home of plaintiff No. 129 on March 11, 2011.

b) On the 12<sup>th</sup> of the same month, plaintiff No. 129 and others turned on a radio because tap-water was not running. Based on the information broadcasted on the radio about the state of the Nuclear Power Plant, they decided to evacuate to a facility in Namie-machi, which was designated as evacuation center at that time, by multiple cars though evacuation order had not been announced yet. At around the noon on the same day, plaintiff No. 129 and others evacuated. Because they considered that they would be able to return home soon, they did not take anything with them but passbooks and driver licenses. They unleashed their house dog and left a lot of food for it.

c) The said home of plaintiff No.129 was located within a 20km radius from the Nuclear Power Plant. At around six o'clock in the evening of the same day, they were told by members of Self-Defense Forces and firefighters, who were in the said facility, that they should evacuate to any place as far as possible, and left the facility toward Koriyama. On their way to Koriyama, they got information that the Nuclear Power Plant had exploded.

Plaintiff No. 129 and others stayed overnight in the cars in a parking lot of a convenience store and proceeded to Yamagata City where the younger brother of plaintiff No. 130 was living. They arrived there on the 13<sup>th</sup> of the same month. Such many persons as five family members including plaintiff No. 129, the parents and elder sister of plaintiff No. 129 and the parents of plaintiff No. 130 stayed together in one of the rooms of the said home of his younger brother. Plaintiff No. 129 worried about plaintiff No. 130 who was eight months pregnant and about premature birth during evacuation because she

expressed the tension in her belly.

d) Around the 23<sup>rd</sup> of the same month, plaintiff No. 129 got information that Nagoya City Hall was accepting evacuees and contacted with the Nagoya City Office. Then the party of eight, namely, he and his family, the parents and elder sister left for Nagoya City in two cars. The parents, etc. of plaintiff No. 130 evacuated from Yamagata City to their relative's house in Hachioji City, Tokyo.

e) Plaintiff No. 129 arrived at Nagoya City Hall in the evening on the 24<sup>th</sup> of the same month after an overnight stay in the car and was introduced to a vacant room of the city-provided apartment. But the language and behavior of the staff of the city office at that time gave an impression that the staff seemed to be wishing that plaintiff No. 129 would go out of the city-provided apartment soon. The room introduced by the staff of the city office was on the top floor of a four-story apartment. The building had no elevator and the room had no electricity, gas nor water. In addition, the parking lot of the apartment was blocked by a pole fixed on ground by bolts and he was not able to park his car. He requested the city office for some solution for the car parking space but it was not responded within the same day. Therefore, plaintiff No. 129 had no choice but to stay overnight alone in the car in a parking lot of a nearby park. The other seven persons stayed in the room with blankets that they brought with them, but it was too cold to sleep well. Plaintiff No. 130 talked to plaintiff No. 129 about her feeling of uncertainty for the future.

f) On the 25<sup>th</sup> of the same month, plaintiff No. 129 got information that Gunma Prefecture was accepting evacuees, and she contacted the prefectural government by telephone. Then the prefecture introduced them a gymnasium in Gunma Prefecture. Therefore, they immediately decided to move out from the city-provided apartment in Nagoya City, returned the keys of the apartment room introduced by the city and the party of eight, namely, plaintiff No, 129 and his family, parents and elder sister left for Gunma Prefecture before noon on the same day.

g) The said eight persons arrived at the gymnasium in Gunma Prefecture at midnight on 25<sup>th</sup> of the same month. The staff that received them was very gentle and arranged a meeting room of the gymnasium for exclusive use of the said eight persons. Food and bedclothes were also provided.

Plaintiff Nos. 129 through 133 started living at a room on the second floor of a

prefecture-provided apartment in Gunma Prefecture and three plaintiffs Nos. 91 through 93 started living separately from them in a city-provided apartment in the same city as the said prefecture-provided apartment.

In the rooms of the said prefecture-provided apartment, handrails were installed for plaintiffs Nos. 129 through 133, and it was helpful for plaintiff No. 130 who was at a late stage in her pregnancy.

h) When plaintiff No. 129 made a temporary visit to the said home at around the end of the same month, he found their house dog dead in front of his home.

i) Plaintiff No. 131 entered an elementary school in Gunma Prefecture in April of the same year.

k) Plaintiff No. 91 separated from plaintiffs Nos. 92 and 93 and evacuated alone to the city of Niigata, by saying that he would go to the place where his brothers were living.

(3) Zoning Designation, etc.

Defendant Japanese Government designated the area in which the said home in Namie-machi is located as the caution zone within a 20km radius from the Nuclear Power Plant on April 22, 2011.

(4) Start of evacuee life, etc.

a) During the life at the said prefecture-provided apartment, plaintiff No. 129 received complaints on nuisances such as “noisy and annoying sound of footsteps” and “loudly echoing human voice” from inhabitants of the lower level.

Plaintiff No. 130 was intimidated by a man staying on the 3<sup>rd</sup> floor who visited her to make a complaint at around 11:30 p.m. during the absence of plaintiff No. 129 working on his job. This made her nervous about daily life noises and she repeatedly warned her children not to be noisy.

Such circumstances caused plaintiff Nos. 131 through 133 to suddenly start crying in the midnight or to wake up and walk around the room. Also plaintiff No. 131

became to gnash his teeth and plaintiffs Nos. 131 and 132 started wetting the bed, both of which never happened before.

Plaintiff No. 129 became to have difficulty in sleeping in the night and started using sleeping pills.

b) Plaintiff No. 130 delivered plaintiff No. 134 on May 6, 2011 (it was two weeks earlier than the expected delivery date but was not considered to be a premature birth. Otsu-E65-1).

c) Plaintiff No. 129 faced harassment that the license plate of his car parked in the parking lot of the said prefecture-provided apartment was bent multiple times and the exterior body of the same was also scratched. He consulted with the police but was ignored.

d) In autumn of the same year, plaintiff No. 129 made a temporary visit to the said home and found that the home was devastated and covered in feces and carcasses of small animals and even sloughs of snakes, even though the house had been locked. He felt that the home was no longer in a condition that would allow them to return and live in. Because he was afraid of radioactivity, he was not able to take any commodity necessary for daily life back from the said home.

e) The area in Namie-machi where the said home was located was designated as a restricted residence area on April 1, 2013 as a result of review by the defendant Japanese Government.

#### (5) Continuation of evacuee life

a) In 2012, plaintiff Nos. 129 and 130 were told by plaintiff No. 131 that plaintiff No. 131 is called “Fukushima Kun” by children around him in elementary school, and that he was very uncomfortable with such a name but was not able to tell it to his parents because it would make his parents worry about him. Then plaintiffs Nos. 129 and 130 started thinking about moving to another town to lessen the burden of their children, as well as to get rid of harassment by people around them. Because it seemed infeasible to return back to the said home, they purchased a house in Gunma Prefecture and moved there in March 2014. The new home in Gunma Prefecture had about the same floor space as that of the said home but on narrow premises, and was not able to be paid totally by the land

and building-related compensation by defendant TEPCO.

Plaintiffs Nos. 129 and 130 fear that, if the fact that plaintiffs belonging to family No. 44 are evacuees from Fukushima is known to the public, they will again face harassment and will be told harassing words that hurt their children. Therefore, they have not told such a fact to the neighbors of the said new home and even to schools to which their children are going. In addition, plaintiffs Nos. 129 and 130 do not have any acquaintance in Gunma Prefecture.

b) The third son of plaintiffs Nos. 129 and 130 was born on November 14 of the same year.

c) Plaintiff No. 129 worked as a contracted employee till April 2013 but has no job thereafter. The owner of the restaurant, at which plaintiff No. 129 was working before the occurrence of the Accident, evacuated to Kanagawa Prefecture and told him that he would newly open a restaurant sometime in the future, and plaintiff No. 129 is waiting for such an opening of the restaurant. Because of such a fact, plaintiff No. 129 explains that he does not want to betray the owner by working as a cook in Gunma Prefecture and that he is not able to start working.

d) On March 10, 2016, plaintiff No. 129 was diagnosed that he is unable to take any job under the current situation with depression.

Plaintiff No. 133 entered an elementary school in Gunma Prefecture in April of the same year (KO-E133-2).

(6) Feelings, etc. of plaintiffs belonging to family No. 44

a) Plaintiff No. 129 has heard that the Nuclear Power Plant scattered massive amount of radioactive materials over the areas in Tsushima and Idate where the evacuation facility to which he evacuated at an early stage was located and is anxious if he, plaintiff No. 130 who was pregnant at that time, and plaintiffs Nos. 131 through 133 have been exposed to radiation.

b) Plaintiff No. 130 encountered the Accident when she was eight months pregnant and worried if she was exposed to radiation and if it would affect the delivery. She also felt

uneasy about premature delivery when she stayed overnight in the car in the course of evacuation. The evacuation due to the Accident forced her to live far away from her parents and hindered the exchange of visits between them like the time before the Accident.

Plaintiff No. 130 feels so sad and is full of sorrow feeling, because she is able to go neither to the said home in Namie-machi nor to places of memories of her family.

(7) Money already paid by defendant TEPCO

The amounts of money which plaintiffs belonging to family No. 44 have received from defendant TEPCO as reimbursement in relation to the claims made under this case are eight million five hundred twenty thousand yen (¥8,520,000) each for plaintiffs Nos. 129 and 130 and eight million six hundred thousand yen (¥8,600,000) each for plaintiffs Nos. 131 through 133 (as shown in the attached list relating to affirmative defense of payment).

(8) Reasons why the amount of money received from defendant TEPCO is considered to be not enough

Plaintiff No. 129 has a feeling that whole of his life has been ruined by the Accident and all what he has done until now including his friends and job have been lost. He feels that the amount received is not enough to compensate those lost things.

Plaintiffs Nos. 129 and 130 expend more than three hundred fifty thousand yen (¥350,000) per month for repayment of mortgage of the said home in Namie-machi and car loan as well as living expenses, etc., and have no choice but to withdraw their savings to somehow manage their daily lives. Under such circumstances, the compensation money received from defendant TEPCO is expected to be depleted in several years. Therefore, they consider that they do not have enough amount of money for living expenses for the period until the environment in Fukushima will be restored to the former state prior to the Accident of the Nuclear Power Plant and all their family members will be able to return home in Fukushima to live safely without fear of radiation exposure.

2 Concerning the assessment of the party's allegation and exhibits regarding the facts found in the above 1

(1) Every statement of facts of plaintiffs Nos. 129 through 134 (KO-D129 through 134, E129 through 134) and the statement given by plaintiff No. 129 are natural and reasonable.

(2) Concerning the allegation by defendant TEPCO

Defendant TEPCO alleges that, in view of the fact that plaintiff No. 129 has purchased a new house in Gunma Prefecture, he has no intention to return home in Fukushima Prefecture and, therefore, the evacuation has ended. However, in consideration of hardships which family of six including an infant experienced during the course of their living in prefecture-provided apartment, it is able to be considered as a reasonable behavior that they purchased a new house to leave the place where they faced harassment, etc. Because the purchase of a new house will not improve their situation in which they are not able to have a positive outlook for the future, the purchase of the house is not able to be deemed as a consideration factor for reduction of the amount of mental damage.

Defendant TEPCO alleges that plaintiffs belonging to family No. 44 have not experienced separation of family, and the point itself of this allegation is reasonable. On the other hand, however, plaintiffs Nos. 129 through 133 have lost close relationships with their parents and relatives, etc., each of which are found in the 1 above. Therefore, the context pointed out by defendant TEPCO is not able to be deemed as a consideration factor for reduction of the amount of mental damage.

Defendant TEPCO also alleges that plaintiff No. 129 is not considered to have had a concrete intention to work. However, if the behavior of plaintiff No. 129 right after the Accident is considered, the extent of the shock that he got from the Accident is able to be presumed. Therefore, the presence or absence of concrete intention to work is not able to be deemed as a consideration factor for reduction of the amount of mental damage.

Other allegations of defendant TEPCO are as per notes in brackets of the above 1, (4), b), and are adoptable.

(3) The allegation by the defendant Japanese Government is same in intent as the allegation of defendant TEPCO in the said (2) and the charge thereto is same as those in the said (2).

### 3. Concerning the claim of plaintiffs belonging to family No. 44

(1) According to the found facts of the above 1, the Accident infringed the right of a quiet life (interests of not being exposed to fear and insecurity of radiation exposure, personality development rights, freedom of residence relocation and inner restful emotion) of all of plaintiffs Nos. 129 through 133 and caused mental distress to them.

However, plaintiff No. 134 was not born at the time of occurrence of the Accident, and, therefore, her right of a quiet life is not able to be considered to have been infringed.

(2) Plaintiff No. 129, especially, was grown up in Namie-machi from his childhood, was working as a cook, encountered the Accident while he was also helping the business of plaintiffs Nos. 91 and 92, was put in difficult and hard circumstances in the course of evacuation and, in addition, became unable to live in the said home in Namie-machi that he built by himself. Therefore, it is able to be considered that he has suffered mental distress by losing not only his job but also close relationships with his relatives and friends, etc.

Plaintiff No. 130 was grew up in Tomioka-machi from her childhood. Because she was living in Namie-machi since the time when she was a senior high school student, she was involved in the Accident. Then, regardless of her pregnancy, she was forced to evacuate through long distance with hardships. Thus, she lost close relationships with her parents and has had mental distress.

Plaintiff No. 131 was born in Namie-machi and involved in the Accident just before his entrance into an elementary school. Then he was forced to evacuate through long distance with hardship, while he did not have even a chance to take his toys, etc. with him. Thus, he experienced severe changes in lifestyle and hardships, such as being called “Fukushima Kun” in the elementary school that he entered and losing communication with his grandparents, and he has suffered mental distress.

Plaintiffs Nos. 132 and 133 were involved in the Accident and were forced to evacuate through long distance with hardships, while they did not have even a chance to take their toys, etc. with them. Thus, they experienced severe changes in lifestyle and have suffered mental distress.

However, the amount of mental damage, which is commensurate with mental distress suffered by plaintiffs Nos. 129 through 133 in relation to the infringement of the said rights and interests due to the Accident, is not able to be considered to exceed each of the said amount that has already been paid by defendant TEPCO, even if all facts that appeared in this case such as specific contents and extent of the infringed rights and interests found in the 1 above, background to and living status during evacuation, situation with family members, etc., other factors such as age and gender, and the degree of accusable behavior of defendant TEPCO are taken into consideration.

Based on the statement of plaintiffs belonging to family No. 44 about the reason why the amount of money received from defendant TEPCO is considered to be not enough, plaintiffs belonging to family No. 44 presuppose that the mental damage will be appropriated for actual expenses such as living costs. However, mental damage should be commensurate with mental distress and the nature thereof is different from monetary damages which are aimed to cover actual expenses such as living costs. Therefore, the amount of mental damage is unable to be increased because of shortage in actual expenses such as living costs.

(3) As stated above, the claims by plaintiffs belonging to family No. 44 have no good reason and all of them have to be dismissed.

(Omitted)

END