



Fatal Accidents Act 1976

1976 CHAPTER 30

1 Right of action for wrongful act causing death

- (1) If death is caused by any wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured.
- (2) Every such action shall be for the benefit of the dependants of the person (" the deceased ") whose death has been so caused.
- (3) In this Act " dependant " means—
 - (a) the wife or husband of the deceased,
 - (b) any person who is a parent or grandparent of the deceased,
 - (c) any person who is a child or grandchild of the deceased, and
 - (d) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.
- (4) In deducing any relationship for the purposes of subsection (3)—
 - (a) any relationship by affinity shall be treated as a relationship by consanguinity, any relationship of the half blood as a relationship of the whole blood, and the stepchild of any person as his child, and
 - (b) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.
- (5) Any reference in this Act to injury includes any disease and any impairment of a person's physical or mental condition.

2 Persons entitled to bring the action

- (1) The action shall be brought by and in the name of the executor or administrator of the deceased.
- (2) If—

Status: This is the original version (as it was originally enacted).

- (a) there is no executor or administrator of the deceased, or
- (b) no action is brought within six months after the death by and in the name of an executor or administrator of the deceased,

the action may be brought by and in the name of all or any of the dependants.

- (3) Not more than one action shall lie for and in respect of the same subject matter of complaint.
- (4) The plaintiff in the action shall be required to deliver to the defendant or his solicitor full particulars of the dependants for whom and on whose behalf the action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

3 Assessment of damages

- (1) In the action such damages may be awarded as are proportioned to the injury resulting from the death to the dependants respectively, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the dependants in such shares as may be directed.
- (2) In assessing damages payable to a widow in respect of the death of her husband in an action under this Act there shall not be taken into account the remarriage of the widow or her prospects of remarriage.
- (3) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (4) Money paid into court in satisfaction of a cause of action under this Act may be in one sum without specifying the dependants' shares.

4 Assessment of damages: disregard of certain benefits

- (1) In assessing damages in respect of a person's death in an action under this Act, there shall not be taken into account any insurance money, benefit, pension or gratuity which has been or will or may be paid as a result of the death.
- (2) In this section—
 - " benefit " means benefit under the enactments relating to social security, including enactments in force in Northern Ireland, and any payment by a friendly society or trade union for the relief or maintenance of a member's dependants,
 - " insurance money " includes a return of premiums, and
 - " pension " includes a return of contributions and any payment of a lump sum in respect of a person's employment.

5 Contributory negligence

Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under the Law Reform (Miscellaneous Provisions) Act 1934 the damages recoverable would be reduced under section 1(1) of the Law Reform (Contributory Negligence) Act 1945, any damages recoverable in an action brought for the benefit of the dependants of that person under this Act shall be reduced to a proportionate extent.

6 Consequential amendments and repeals

- (1) Schedule 1 to this Act contains consequential amendments.
- (2) The enactments in Schedule 2 to this Act are repealed to the extent specified in the third column of that Schedule.

7 Short title, etc.

- (1) This Act may be cited as the Fatal Accidents Act 1976.
- (2) This Act shall come into force on 1st September 1976, but shall not apply to any cause of action arising on a death before it comes into force.
- (3) This Act shall not extend to Scotland or Northern Ireland.