
CHAPTER 71**FATAL ACCIDENTS****ARRANGEMENT OF SECTIONS**

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CHAPTER 71
FATAL ACCIDENTS
An Act to amend the law relating to the compensation of the families of persons killed by accident. *25 of 1976
9 of 1995*

[Commencement 29th December, 1976]

1. This Act may be cited as the Fatal Accidents Act. Short title.
2. (1) In this Act, unless the context otherwise requires — Interpretation.
 - “adopted” means adopted in pursuance of an adoption order made under the Adoption of Children Act or in pursuance of an order of a court in any country which the Supreme Court is satisfied has jurisdiction to make an order making similar provision with similar effect to an order made in pursuance of that Act; Ch. 131.
 - “child” includes grandchild;
 - “person entitled” means a person for whose benefit an action may be brought under this Act;
 - “parent” includes grandparent.
- (2) In construing any relationship for the purposes of this Act —
 - (a) an adopted person shall be treated as a child of the person or persons by whom he was adopted and not as the child of any other person; and subject thereto,
 - (b) 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
 - (c) an illegitimate person shall be treated as the legitimate child of his mother or reputed father.

Action maintainable notwithstanding death of person injured.

3. (1) Where the death of any person is caused by the wrongful act, neglect or default of any other person and such act, neglect or default would but for his death have entitled the person injured to maintain an action for 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) Notwithstanding any rule to the contrary, no action for damages under subsection (1) shall be stayed on the ground that criminal proceedings are pending or have not been taken.

Persons for whose benefit action may be brought.

4. (1) An action under this Act shall be brought for the benefit of any person who is the wife, husband, parent or child of the deceased or who is, or is the issue of, a brother, sister, uncle or aunt of the deceased person.

(2) An action under this Act shall be brought in the name of —

- (a) the executor or administrator of the deceased on behalf of any or all persons entitled; or
- (b) where there is no executor or administrator of the deceased or where the executor or administrator of the deceased fails to institute an action within six months after the date of death of the deceased, any person or persons entitled, on behalf of all persons entitled.

Damages.

5. (1) In any action under this Act, the court may award such damages as it may think proportioned to the injury resulting from the death to the persons entitled respectively; and shall, after deducting costs not recovered from the defendant, divide such damages among such parties in such shares as the court may direct.

(2) Damages may be awarded in respect of the reasonable funeral expenses of the deceased person if such expenses have been incurred by a person entitled.

(3) In assessing damages in any 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.

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- (4) In subsection (3) of this section —
- “benefit” means benefit under the National Insurance Act, and any payment by a friendly society or trade union for the relief or maintenance of a member’s dependants; Ch. 350.
- “gratuity” includes a gratuity payable upon the death of a public officer or police officer under the Pensions Act or the Police Act; Ch. 43.
Ch. 205.
- “insurance money” includes a return of premiums; and
- “pension” includes a return of contributions and payment of a lump sum in respect of a person’s employment.
6. In assessing damages payable under this Act —
- (a) to a widower in respect of the death of his wife or to a widow in respect of the death of her husband, there shall not be taken into account the remarriage of the widower or widow or his or her prospects of remarriage as the case may be; or
- (b) to a child in respect of the death of his father, there shall not be taken into account the remarriage or prospects of remarriage of the surviving mother.
7. A defendant in any action under this Act may pay into court one sum in compensation of all persons entitled without specifying the shares into which it is to be divided. Payment into court.
8. Not more than one action shall lie in respect of the same subject matter of complaint under this Act. Limitation of action.
9. In any action under this Act, the plaintiff shall deliver to the defendant together with his statement of claim full particulars of the person or persons for whom or on whose behalf the action is brought and of the nature of the claim in respect of which damages are sought to be recovered. Plaintiff to deliver particulars of person for whom damages claimed.
10. This Act shall apply only to actions brought in respect of deaths occurring after the commencement of this Act. Application of Act.
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Repeal and
transitional.
1965 Ed. Ch. 67.

11. (1) The Fatal Accidents Act is repealed.

(2) Notwithstanding the repeal of the Fatal Accidents Act, any action which, if this Act had not been passed, would have been maintainable under that Act in respect of a death occurring before the commencement of this Act may be maintained, and if already commenced may be continued, and determined in accordance with the provisions of that Act and in all respects as if this Act had not been passed.