
CHAPTER 75**CONTRIBUTORY NEGLIGENCE****ARRANGEMENT OF SECTIONS**

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CHAPTER 75

CONTRIBUTORY NEGLIGENCE

An Act to amend the law relating to contributory negligence and for purposes connected therewith. *21 cf 1961*
27 cf 1963
5 cf 1987

[Commencement 31st July, 1961]

1. This Act may be cited as the Contributory Negligence Act. Short title.

2. The following expressions, unless the context otherwise requires, have the meanings hereby respectively assigned to them, that is to say — Interpretation.

“court” means, in relation to any claim, the court or arbitrator by or before whom the claim falls to be determined;

“damage” includes loss of life and personal injury;

“dependant” means any person for whose benefit an action could be brought under the Fatal Accidents Act; Ch. 71.

“fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort or would give rise to the defence of contributory negligence.

3. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced by such extent as the court thinks just and equitable having regard to the claimant’s share in the responsibility for the damage: Apportionment of liability in case of contributory negligence.

Provided that —

- (a) nothing herein contained shall affect the extent of any contractual liability; and
- (b) where any contract or enactment providing for limitation of liability is applicable to a claim, the amount of damages recoverable by the claimant shall not exceed the limit so applicable.

(2) Where damages are recoverable by any claimant by virtue of the provisions of subsection (1) of this section the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Where any case to which subsection (1) of this section applies is tried with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

(4) Where, in any case to which subsection (1) of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Limitation Act, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

4. Where any person dies as a result partly of his own fault and partly of the fault of any other person or persons, any damages recoverable in an action brought for the benefit of the dependants of that person under the Fatal Accidents Act shall be reduced as aforesaid.

5. Article 21 of the Convention contained in the First Schedule to the Carriage by Air (Colonies, Protectorates and Trust Territories) Order, 1953 (which empowers a court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person), shall have effect subject to the provisions of section 3 of this Act.

6. This Act shall not apply to any claim to which section 1 of The Maritime Conventions Act, 1911, of the United Kingdom Parliament applies.

7. This Act shall not apply to any case where the acts or omissions giving rise to the claim occurred before the passing of this Act.

Ch. 83.

Action brought
under the Fatal
Accidents Act.

Ch. 71.

Saving for
Carriage by Air
(Colonies,
Protectorates &
Trust Territories)
Order, 1953.
SI 1953/1474

Saving for
Maritime
Conventions Act,
1911.

Saving.