



Damages (Scotland) Act 2011

2011 asp 7

8 Further provision as regards relative's entitlement to damages

- (1) Subject to subsection (3), in assessing for the purposes of section 4 or 6 the amount of any loss of support sustained by a relative of A no account is to be taken of—
 - (a) any patrimonial gain or advantage which has accrued or will or may accrue to the relative, by way of succession or settlement, from A or from any other person, or
 - (b) any insurance money, benefit, pension or gratuity which has been, or will or may be, paid as a result of A's death.
- (2) In subsection (1)—
 - “benefit” means benefit under the Social Security Contributions and Benefits Act 1992 (c.4) or the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c.7) 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.
- (3) Where A has been awarded a provisional award of damages under section 12(2) of the Administration of Justice Act 1982 (c.53), the making of that award does not prevent liability from arising under section 4(1); but in assessing for the purposes of section 4 or 6 the amount of any loss of support sustained by a relative the court is to take into account such part of the provisional award relating to future patrimonial loss as was intended to compensate A for a period beyond the date on which A died.
- (4) In order to establish loss of support for the purposes of section 4 or 6, it is not essential for a relative to show that A was, or might have become, subject to a duty in law to provide support for, or contribute to the support of, the relative; but if any such fact is established it may be taken into account in determining whether, and if so to what extent, A would (had A not died) have been likely to provide, or contribute to, such support.
- (5) Except as provided for in this Act or in any other enactment, no person is entitled by reason of relationship to damages in respect of the death of another person.
- (6) In subsection (5), “damages” includes damages by way of solatium.