



# Administration of Justice Act 1982

## 1982 CHAPTER 53

### PART I

#### DAMAGES FOR PERSONAL INJURIES ETC

##### *Abolition of certain claims for damages etc.*

#### **1 Abolition of right to damages for loss of expectation of life**

- (1) In an action under the law of England and Wales or the law of Northern Ireland for damages for personal injuries—
- (a) no damages shall be recoverable in respect of any loss of expectation of life caused to the injured person by the injuries; but
  - (b) if the injured person's expectation of life has been reduced by the injuries, the court, in assessing damages in respect of pain and suffering caused by the injuries, shall take account of any suffering caused or likely to be caused to him by awareness that his expectation of life has been so reduced.
- (2) The reference in subsection (1)(a) above to damages in respect of loss of expectation of life does not include damages in respect of loss of income.

#### **2 Abolition of actions for loss of services etc.**

No person shall be liable in tort under the law of England and Wales or the law of Northern Ireland—

- (a) to a husband on the ground only of his having deprived him of the services or society of his wife ;
- (b) to a parent (or person standing in the place of a parent) on the ground only of his having deprived him of the services of a child; or
- (c) on the ground only—
  - (i) of having deprived another of the services of his menial servant;
  - (ii) of having deprived another of the services of his female servant by raping or seducing her; or

---

*Status: This is the original version (as it was originally enacted).*

---

(iii) of enticement of a servant or harbouring a servant.

*Fatal Accidents Act 1976*

**3 Amendments of Fatal Accidents Act 1976**

(1) The following sections shall be substituted for sections 1 to 4 of the Fatal Accidents Act 1976—

**“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) Subject to section 1A(2) below, 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 or former wife or husband of the deceased;
  - (b) any person who—
    - (i) was living with the deceased in the same household immediately before the date of the death ; and
    - (ii) had been living with the deceased in the same household for at least two years before that date ; and
    - (iii) was living during the whole of that period as the husband or wife of the deceased;
  - (c) any parent or other ascendant of the deceased;
  - (d) any person who was treated by the deceased as his parent;
  - (e) any child or other descendant of the deceased;
  - (f) any person (not being a child of the deceased) who, in the case of any marriage to which the deceased was at any time a party, was treated by the deceased as a child of the family in relation to that marriage;
  - (g) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased.
- (4) The reference to the former wife or husband of the deceased in subsection (3) (a) above includes a reference to a person whose marriage to the deceased has been annulled or declared void as well as a person whose marriage to the deceased has been dissolved.
- (5) In deducing any relationship for the purposes of subsection (3) above—
  - (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.

- (6) Any reference in this Act to injury includes any disease and any impairment of a person's physical or mental condition.

### **1A Bereavement.**

- (1) An action under this Act may consist of or include a claim for damages for bereavement.
- (2) A claim for damages for bereavement shall only be for the benefit—
- (a) of the wife or husband of the deceased ; and
  - (b) where the deceased was a minor who was never married—
    - (i) of his parents, if he was legitimate ; and
    - (ii) of his mother, if he was illegitimate.
- (3) Subject to subsection (5) below, the sum to be awarded as damages under this section shall be £3,500.
- (4) Where there is a claim for damages under this section for the benefit of both the parents of the deceased, the sum awarded shall be divided equally between them (subject to any deduction falling to be made in respect of costs not recovered from the defendant).
- (5) The Lord Chancellor may by order made by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, amend this section by varying the sum for the time being specified in subsection (3) above.

### **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—
- (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 persons for whose benefit an executor or administrator could have brought it.
- (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 persons 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, other than damages for bereavement, may be awarded as are proportioned to the injury resulting from the death to the dependants respectively.

---

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

---

- (2) After deducting the costs not recovered from the defendant any amount recovered otherwise than as damages for bereavement shall be divided among the dependants in such shares as may be directed.
- (3) In an action under this Act where there fall to be assessed damages payable to a widow in respect of the death of her husband there shall not be taken account the re-marriage of the widow or her prospects of re-marriage.
- (4) In an action under this Act where there fall to be assessed damages payable to a person who is a dependant by virtue of section 1(3)(b) above in respect of the death of the person with whom the dependant was living as husband or wife there shall be taken into account (together with any other matter that appears to the court to be relevant to the action) the fact that the dependant had no enforceable right to financial support by the deceased as a result of their living together.
- (5) If the dependants have incurred funeral expenses in respect of the deceased, damages may be awarded in respect of those expenses.
- (6) Money paid into court in satisfaction of a cause of action under this Act may be in one sum without specifying any person's share.

#### **4 Assessment of damages: disregard of benefits.**

In assessing damages in respect of a person's death in an action under this Act, benefits which have accrued or will or may accrue to any person from his estate or otherwise as a result of his death shall be disregarded.”.

- (2) In section 5 of the Fatal Accidents Act 1976 the words " brought for the benefit of the dependants of that person " shall be omitted.
- (3) In section 3 of the Carriage by Railway Act 1972 (which provides that a person who has a right of action under that Act in respect of the death of a railway passenger shall not bring an action under the Fatal Accidents Act 1976)—
  - (a) in subsection (1)(a), at the beginning there shall be inserted the words " subject to subsection (1A) below, ";
  - (b) the following subsection shall be inserted after that subsection—
 

“(1A) Nothing in subsection (1) above affects the right of any person to claim damages for bereavement under section 1A of the Fatal Accidents Act 1976.”; and
  - (c) in subsection (4), after the word " Order ", in the second place where it occurs, there shall be inserted the words " , the reference to section 1A of the Fatal Accidents Act 1976 in subsection (1A) above shall be construed as a reference to Article 3A of that Order ".

#### *Claims not surviving death*

#### **4 Exclusion of Law Reform (Miscellaneous Provisions) Act 1934**

- (1) The following subsection shall be inserted after section 1(1) of the Law Reform (Miscellaneous Provisions) Act 1934 (actions to survive death)—

---

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

---

“(1A) The right of a person to claim under section 1A of the Fatal Accidents Act 1976 (bereavement) shall not survive for the benefit of his estate on his death.”.

(2) The following paragraph shall be substituted for subsection (2)(a)—

“(a) shall not include—

- (i) any exemplary damages ;
- (ii) any damages for loss of income in respect of any period after that person's death ;”.

*Maintenance at public expense*

**5 Maintenance at public expense to be taken into account in assessment of damages**

In an action under the law of England and Wales or the law of Northern Ireland for damages for personal injuries (including any such action arising out of a contract) any saving to the injured person which is attributable to his maintenance wholly or partly at public expense in a hospital, nursing home or other institution shall be set off against any income lost by him as a result of his injuries.

*Provisional damages for personal injuries*

**6 Award of provisional damages for personal injuries**

(1) The following section shall be inserted after section 32 of the Supreme Court Act 1981—

**“32A Orders for provisional damages for personal injuries.**

- (1) This section applies to an action for damages for personal injuries in which there is proved or admitted to be a chance that at some definite or indefinite time in the future the injured person will, as a result of the act or omission which gave rise to the cause of action, develop some serious disease or suffer some serious deterioration in his physical or mental condition.
- (2) Subject to subsection (4) below, as regards any action for damages to which this section applies in which a judgment is given in the High Court, provision may be made by rules of court for enabling the court, in such circumstances as may be prescribed, to award the injured person—
  - (a) damages assessed on the assumption that the injured person will not develop the disease or suffer the deterioration in his condition; and
  - (b) further damages at a future date if he develops the disease or suffers the deterioration.
- (3) Any rules made by virtue of this section may include such incidental, supplementary and consequential provisions as the rule-making authority may consider necessary or expedient.
- (4) Nothing in this section shall be construed—

---

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

---

- (a) as affecting the exercise of any power relating to costs, including any power to make rules of court relating to costs ; or
  - (b) as prejudicing any duty of the court under any enactment or rule of law to reduce or limit the total damages which would have been recoverable apart from any such duty.”.
- (2) In section 35 of that Act (supplementary) " 32A," shall be inserted before " 33 " in subsection (5).
- (3) The section inserted as section 32A of the Supreme Court Act 1981 by subsection (1) above shall have effect in relation to county courts as it has effect in relation to the High Court, as if references in it to rules of court included references to county court rules.