

CHAPTER 54 - FATAL ACCIDENTS

A LAW TO REGULATE THE LAW RELATING TO THE COMPENSATION OF THE FAMILIES OF PERSONS KILLED IN ACCIDENTS

[20 September 1956]

1. This Law may be cited as the Fatal Accidents Law.

2. In this Law:—

"action" includes any equivalent civil proceeding in an area court;

"administrator" includes an Administrator-General acting under his powers under Part VII of the Administrator-General's Act;

"deceased person" means a person whose death has been caused by a wrongful act, neglect or default of another person within the meaning of section 3;

"funeral expenses" means the reasonable expenses of the decent interment or obsequies of a deceased person but does not include the cost of the mourning of any person, or of a tombstone or memorial or of any celebrations or customary presents;

"High Court" means the High Court of Justice of the State;

"immediate family" means:-

(a) in relation to a deceased person who was not subject to any systems of customary law the:-

(i) wife or wives;

(ii) husband;

(iii) parent, which shall include father and mother, grandfather and grandmother and stepfather and stepmother; and

(iv) child, which shall include son and daughter, grandson and granddaughter and stepson and stepdaughter,

of such deceased person; and

(b) in relation to a deceased person who was subject to any system of customary law other than Islamic Law, the persons specified in paragraph (a) and, in addition, his brother and sister which shall include stepbrother and stepsister;

(c) in relation to a deceased person who was subject to Islamic Law, the persons who are entitled to share in the estate of the deceased person under Islamic Law;

"area court of competent jurisdiction" means an area court upon which the Governor by Order made under any legislation relating to area courts shall have conferred jurisdiction for the purposes of this Law;

"customary law" includes Islamic Law.

3. Notwithstanding any rule of law, practice or procedure heretofore in force to the contrary, whenever the death of a person shall be caused by a wrongful act, neglect or default of another person and the act, neglect or default is such as would, if death had not ensued, have entitled the person injured to maintain an action, and recover damages in respect thereof, then and in every such case 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.

4. —(1) Every such action shall be for the benefit of the members of the immediate family of the person whose death shall have been so caused and shall be brought:-

(a) by and in the name of the executor or administrator of the deceased person; or

(b) in the case of a deceased person who was subject to any system of customary law

immediately before his death, at the option of his immediate family by and in the name of such person or persons as the court may be satisfied is or are entitled or empowered to represent the deceased person or his estate according to such customary law.

(2) If there is no executor or administrator or no representative for the purposes of paragraph (b) of subsection (1) of a deceased person or if there is such an executor, administrator or representative but no action is brought under the provisions of subsection (1) within six months after the death of such deceased person then such action may be brought by and in the name or names of all or any of the persons for whose benefit such action would have been brought if it had been brought by and in the name of such executor, administrator or representative as aforesaid, and every action so brought shall be for the benefit of the same person or persons and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of such executor, administrator or representative.

(3) Not more than one award of damages may be made for and in respect of the same subject matter of complaint.

5. In every action brought under the provisions of this Law the plaintiff shall give to the court full particulars of the person or persons for whom and on whose behalf such action is brought and in an action, of the nature of the claim in respect of which damages are sought to be recovered.

6.—(1) Subject to the provisions of subsection (2) every action brought under the provisions of this Law shall be commenced within three years after the death of a deceased person.

(2) This section shall apply notwithstanding anything contained in the Public Officers Protection Law or the Local Government Law, but shall not apply in any other case where a special period of limitation for the commencement of any action has been prescribed by any written law.

7.—(1) In an action brought under the provision of his Law:-

(a) The court may give such damages as it may think fit proportioned to the injury resulting from a death to the persons respectively for whom and for whose benefit such action is brought; and

(b) any amount recovered under the provisions of paragraph (a) after deducting the cost not recovered from the defendant, shall be apportioned as follows:-

(i) where the deceased person was not a person subject to any system of customary law, amongst the persons entitled thereto in such shares as the court shall direct;

(ii) where the deceased person was a person subject to any particular system of customary law, the principles of such system shall be applied by the court in deciding which (if any) members of the immediate family of the deceased person are entitled to share in such damages, and in apportioning the shares of such damages amongst the members of the immediate family so ascertained.

(2) In assessing damages in any action there shall not be taken into account any sums paid or payable on the death of the deceased under any contract of assurance or insurance whether made by the deceased or by any other person and whether before or after the passing of this Law.

(3) Damages may be awarded in respect of the funeral expenses of the deceased person if such expenses have been incurred by the parties for whose benefit the action is brought.

8.—(1) It shall be sufficient, if the defendant is advised to pay money into court, that he pays it in as compensation in one sum to all persons entitled under this Law for his wrongful act, neglect or default, without specifying the shares to which it is to be divided by the court.

(2) If any sum so paid into court is not accepted and issue is joined as to its sufficiency, and the court shall consider the same sufficient, the defendant shall be entitled to judgment on such issue.

9. Any action or proceedings arising under the provisions of this Law shall be brought in the High Court or a District Court:

Provided that if all the parties to such action or proceedings are subject to the jurisdiction of an area court the plaintiff may at his option bring any such action or proceedings in an area court of competent jurisdiction.