

The Fatal Accidents Act, 1846

The
Fatal Accidents Act, 1855 (Act XIII Of 1855)

Preamble.-An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect or default may have caused the death of another person, and it often-times right and expedient that the wrong doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows:

Short title given by the Short Titles Act, 1897 (14 of 1897).

This Act is based on the Fatal Accidents Act, 1846 (9 & 10 Vict., C. 93).

It has been declared to be in force in all the Provinces and the Capital of the Federation, except the Scheduled districts, by the Laws Local Extent Act, 1874 (15 of 1874), Section 3.

It has been declared by notification under Section 3(a) of the Schedule Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts namely: –

Sindh See Gazette of India, 1880, Pt. 1, p. 672.

The Scheduled Districts of the Punjab (some of these portions of others now form the N.W.F.P), — See Gazette of India, 1881, Pt. 2, p.483.

The District of Sylhet.....See Gazette of India, 1879, Pt. I, P.631. The word "Indian" omitted by A.O. 1949, Sch.

1. Suit for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.-Whenever the death of a person shall be caused by wrongful act, neglect or default, and the neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued shall be liable to an action of suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime.

Every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the executor, administrator or representative of the person deceased;

and in every such action the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought; and the amount so recovered, after deducting all costs and expenses including the cost not recovered from the defendant, shall be divided amongst the before

mentioned parties, or any of them, in such shares as the Court by its Judgement or Decree shall direct.

2. Not more than one suit to be brought-Claim for loss to estate may be added.-Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint. Provided that, in any such action or suit, the executor, administrator or representative of the deceased may insert a claim for and recover any pecuniary loss to the estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the estate of the deceased.

Normal span of life in Pakistan to be taken as 60 years if no evidence on record regarding suffering the deceased from any disease likely to curtail life span. Court may; however, accept 65 years or more if normal age in family of deceased was more than 60 years. Deceased in case a boy of excellent health. Normal age in family more than 65 years. Evidence of plaintiffs as regards span of life remaining unchallenged. Expected age of deceased as well as his parents accepted as 65 years.

Fatal accident. Suit for damages. Owner and driver of bus not choosing to contest suit. Counsel for Insurance Company not desiring to cross-examine attorney of plaintiff. Fact of deceased having died due to accident caused by rash and negligent driving of bus by defendant driver, held, stands proved.

3. Plaintiff shall deliver particulars, etc.-The plaint in any such action or suit shall give a full particular of the persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

4. Interpretation-clause.-The following words and expressions are intended to have the meanings hereby assigned to them respectively so far as such meanings are not excluded by the context or by the nature of the subject-matter that is to say the word "person" shall include two bodies politic and corporate; and the word "parent" shall include father and mother and grandfather and grandmother; and the word "child" shall include son and grand-son and granddaughter and stepdaughter.