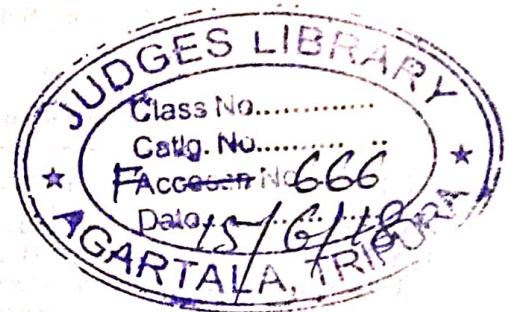


The Fatal Accidents Act, 1855

(13 of 1855)



along with
SHORT NOTES

Book No. 8

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THE FATAL ACCIDENTS ACT, 1855

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THE FATAL ACCIDENTS ACT, 1855

INTRODUCTION

If any person has caused the death of another person by accident due to his wrongful act, neglect, or default, no action or suit was maintainable in any court against that person. A time came when it was found expedient and necessary that the wrong-doer in such case should be answerable in damages for the injury so caused by him. To give effect to this the Indian Fatal Accident Bill was introduced in the Legislature.

ACT 13 OF 1855

The Indian Fatal Accident Bill having been passed by the Legislature received assent on 27th March, 1855. It came on Statute Book as the Indian Fatal Accidents Act, 1855 (13 of 1855). By section 3 and Schedule of the Part B States (Laws) Act, 1951 (3 of 1951) its nomenclature has been changed and now it stands as THE FATAL ACCIDENTS ACT, 1855 (13 of 1855).

LIST OF AMENDING ACTS

1. The Indian Limitation Act, 1871 (9 of 1871).
2. The Repealing and Amending Act, 1914 (10 of 1914).
3. The Part B States (Laws) Act, 1951 (3 of 1951) (w.e.f. 1-4-1951).



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THE FATAL ACCIDENTS ACT, 1855

(13 of 1855)¹

[27th March, 1855]

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

Preamble.—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 is 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:—

²**[1. Short title and extent.**—(1) This Act may be called the Fatal Accidents Act, 1855.

(2) It extends to the whole of India except the State of Jammu and Kashmir.]

³**[1A.] 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 act, 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 or 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.

⁴**[***]** 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 costs 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 judgment or decree shall direct.

COMMENTS

(i) Under section 1A of the Fatal Accidents Act, 1855, compensation awarded for loss of dependency, worked out by applying the principle of multiplier is a part of damages "proportioned to the loss resulting from the death"; *Fizabai v. Nemi Chand*, AIR 1993 MP 79.

1. The Act has been extended to Lacadive Minicoy and Amindivi Islands by Reg. 8 of 1965, sec. 3 and Sch. and to the Union Territory of Pondicherry (now Puducherry w.e.f. 1-10-2006) by Act 26 of 1968, sec. 3 and Sch.

The Act has been extended to Sikkim w.e.f. 31-12-1984, *vide* S.O. 529(E) of 1983 and S.O. 982(E) of 1984.

2. Ins. by Act 3 of 1951, sec. 3 and Sch. (w.e.f. 1-4-1951).

3. Section 1 re-numbered as section 1A by Act 3 of 1951, sec. 3 and Sch.

4. The words "And it is enacted further that" rep. by Act 10 of 1914, Sch. II.

(ii) Section 1A of the Fatal Accidents Act, 1855 read with section 110B of the Motor Vehicles Act, 1939 (Now *see* Motor Vehicles Act, 1998), makes it obligatory on the tribunal to award "just compensation" which differs from case to case; *Sardar Ishwar Singh v. Himachal Puri*, AIR 1990 MP 282.

(iii) The maintainability of the claim for damages on account of the agony suffered by wife cannot be claimed by the plaintiff in a representative capacity. As husband he can claim damages either under the Fatal Accidents Act or under, the Motor Vehicles Act; *M.L. Singhal v. Dr. Pradeep Mathur*, AIR 1996 Del. 261.

2. Not more than one suit to be brought.—Provided always that not more than one action or suit shall be brought for, and in respect of the same subject-matter of complaint ¹[***]:

Claim for loss to the estate may be added.—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.

3. Plaintiff shall deliver particulars, etc.—The plaint in any such action or suit shall give a full particular of the person or 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 ²[***] the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother³ and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter and step-son and step-daughter.

...

1. The words "and that every such action shall be brought within twelve calendar months after the death of such deceased person", rep. by Act 9 of 1871. For limitation, see now the Limitation Act, 1963 (36 of 1963).

2. Certain words rep. by Act 10 of 1914, Sch. II.

3. Step-father and step-mother are designedly omitted.