

CHAPTER 59 COMPENSATION FOR INJURIES ACT

• Act • Subsidiary Legislation •

ACT

Amended by

Act No. 10 of 1990

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CHAPTER 59 COMPENSATION FOR INJURIES ACT

An Act to provide for the compensation of the families of persons killed by accidents, and to extend and regulate the liability of employers to make compensation for personal injuries suffered by workmen in their service.

[Amended by Act No. 10 of 1990.]

[28th January, 1885.]

1. Short title

This Act may be cited as the Compensation for Injuries Act.

2. Interpretation

For the purposes of this Act—

“child” includes son and daughter, grandson and granddaughter, stepson and stepdaughter;

“employer” includes a body of persons whether corporate or unincorporate;

“parent” includes father and mother, grandfather and grandmother, stepfather and stepmother;

“person who has superintendence entrusted to him or her” means a person whose sole or principal duty is that of superintendence, and who is not ordinarily engaged in manual labour;

“workman” does not include a domestic or menial servant, but save as aforesaid means any person who, being a labourer, servant in husbandry, journeyman, artificer, handicraftsman, miner or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract be expressed or implied, oral or in writing, and be a contract of service or a contract personally to execute any work or labour.

3. Action maintainable for injury notwithstanding death of person injured

Whenever the death of any person is caused by a wrongful act, neglect or default, and the act, neglect or default is such as would before the commencement of this Act (if death had not ensued) have entitled the party 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 and although the death shall have been caused under such circumstances as amount in law to a felony.

4. Action maintainable against employer for injury to workmen under certain circumstances

Where personal injury is caused to a workman—

- (a) by reason of any defect in the condition of the ways, works, machinery or plant connected with or used in the business of the employer;
- (b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him or her whilst in the exercise of such superintendence;
- (c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where such injury resulted from his or her having so conformed; or
- (d) by reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or regulations of the employer or in obedience to particular instructions given by any person delegated with the authority of the employer in that behalf,

the workman or, in case the injury results in death, the legal personal representatives of the workman and any person entitled in case of death, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of, the employer nor engaged in his or her work.

5. Exceptions to liability of employer

A workman shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases, that is to say—

- (a) under section 4(a), unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person in the service of the employer and entrusted by him or her with the duty of seeing that the ways, works, machinery or plant were in proper condition;
- (b) under section 4(d), unless the injury resulted from some impropriety or defect in the rules, regulations or instructions therein mentioned;
- (c) in any case where the workman knew of the defect or negligence which caused his or her injury and failed within a reasonable time to give or cause to be given information thereof to the employer or some person superior to himself or herself in the service of the employer, unless he or she was aware

that the employer or such superior already knew of the said defect or negligence.

6. Limit of time of notice and commencement of action

An action for recovery of compensation under this Act shall not be maintainable unless notice in writing that injury has been sustained is given within six weeks and the action is commenced within six months from the occurrence of the accident causing the injury or, in case of death, within twelve months from the time of death:

Provided that in case of death the want of such notice shall be no bar to the maintenance of such action if the Judge is of opinion that there was reasonable excuse for such want of notice.

7. Particulars to be contained in and mode of service of notice

(1) Notice given under this Act in respect of an injury shall specify the name and address of the person injured, and shall state in ordinary language the nature and cause of the injury and the date at which it was sustained, and shall be served on the person liable for the injury or his or her attorney or agent, or left at the last known residence or place of business of any such person:

Provided that where there is more than one person liable the notice may be served on any one of the persons or his or her attorney or agent.

(2) A notice under this section shall not be deemed invalid by reason of any defect or inaccuracy therein unless the Judge who tries the action arising from the injury mentioned in the notice is of opinion that the defendant in the action is prejudiced in his or her defence by the defect or inaccuracy, and that the defect or inaccuracy was for the purpose of misleading.

8. By whom the action shall be brought

Every action in respect of injuries resulting in death shall be for the benefit of the wife, husband, parent or child of the person whose death was caused, and shall be brought by the executor or administrator of the deceased person:

Provided that if there is no executor or administrator of the deceased person, or if, there being such executor or administrator, no such action shall within six months after the death of such deceased person have been brought by his or her executor or administrator, then such action may be brought by all or any of the persons (if more than one) for whose benefit it would have been if it had been brought by the executor or administrator:

And provided also that, where the person deceased is an immigrant within the meaning of any law for the time being in force relating to immigration, the action may be brought by the Commissioner of Labour on behalf of the parties entitled if he or she thinks right.

9. Plaintiff to deliver particulars of persons on whose behalf the action is brought

The plaintiff shall be required to deliver to the defendant together with the statement of claim, full particulars of the persons on whose behalf the action is brought.

10. Damages recoverable, and how divided

In every such action the Judge or, where the trial is had before a jury, the jury may give such damages as he or she or they may think is proportioned to the injury resulting from the death, to the parties for whose benefit the action is brought, and the amounts so recovered, after deducting the costs not recovered from the defendants, shall be divided

amongst the before-mentioned parties in such shares as the Judge, or the jury by their verdict, shall find and direct:

Provided that the amount of compensation recoverable for injuries sustained by a workman under section 4 shall not exceed such sum as may be found to be equivalent to the estimated earnings during the three years preceding the injury of a person in the same grade employed during those years in the like employment within Grenada:

And provided also that it shall be sufficient, if the defendant is advised to pay money into Court, that he or she pay it as a compensation in one sum to all persons entitled under this Act for his or her wrongful act, neglect or default without specifying the shares into which it is to be divided by the Judge or jury. If the said sum be not accepted and an issue is taken by the plaintiff as to its sufficiency, and the jury shall think it sufficient, the defendant shall be entitled to the verdict upon that issue.

11. Trial of actions

Every action for recovery of compensation under this Act shall be brought in the High Court and not more than one action shall lie for the same subject matter of complaint.

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SUBSIDIARY LEGISLATION

No Subsidiary Legislation
