

## **COMPENSATION FOR INJURIES ACT**

### **CHAPTER 8:05**

**Act**

**26 of 1896**

Amended by

6 of 1976

50 of 1976

17 of 1981

\*22 of 1981

36 of 1997

\*See Note on Amendment at page 2

**Current Authorised Pages**

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**Note on Subsidiary Legislation**

This Chapter contains no subsidiary legislation.

**Note on Amendment (Sections 2 and 5)**

- (a) Act No. 17 of 1981 repealed subsections (3) and (4) of section 2 of this Act, but section 2 of this Act did not contain a subsection (4), however Act No. 36 of 1997 amended section 2 of the Act to include a subsection (4).
- (b) Sections 2 and 5 of this Act have been amended by Act No. 22 of 1981 but Act No. 22 of 1981 had not up to the date of the last revision of this Act been brought into operation.

**CHAPTER 8:05**

**COMPENSATION FOR INJURIES ACT**

ARRANGEMENT OF SECTIONS

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**CHAPTER 8:05**

**COMPENSATION FOR INJURIES ACT**

1950 Ed.  
Ch. 5 No. 5.  
26 of 1896.

**An Act to provide for compensation in cases of accidental deaths in general.**

Commencement.

[10<sup>TH</sup> DECEMBER 1896]

Short title.

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

Interpretation.  
[50 of 1976  
17 of 1981  
22 of 1981  
36 of 1997].

**2.** (1) In this Act, “dependant” means wife, husband, parent, grandparent, child, grandchild and any person who is, or who is the issue of a brother, sister, uncle or aunt.

(2) In deducing any relationship for the purposes of this Act—

(a) an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person; and, subject thereto;

(b) 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

(c) an illegitimate person shall be treated as the legitimate child of his mother and reputed father.

(3) *(Repealed by Act No. 17 of 1981).*

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

**ACTION FOR COMPENSATION**

Action for compensation maintainable against person causing death through neglect, etc., notwithstanding death of person injured.

**3.** Whenever the death of any person is caused by some 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, 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, and although the death shall have been under such circumstances as amount in law to an arrestable offence.

**4.** Every action in respect of any personal injury resulting in death shall be for the benefit of the dependants of the person whose death has been so caused and shall be brought by and in the names of the executor or administrator of the deceased person; but, if within six months of the death, no such action has been taken by and in the name of the executor or administrator, then an action may be brought by and in the name of any of the dependants of the deceased person.

By whom action in case of death to be brought. [50 of 1976].

**5.** (1) (*Repealed by Act No. 36 of 1997*).

(2) Not more than one action lies under section 3 for and in respect of the same subject matter of complaint.

Limit of time of commencement of action. [50 of 1976, 22 of 1981, 36 of 1997].

**6.** In every action in respect of injury resulting in death, the plaintiff on the record shall be required, together with the statement of claim, to deliver to the defendant or his Attorney-at-law full particulars of the person or persons for whom and on whose behalf such action is brought.

Particulars of persons for whom action brought.

**7.** (1) In every action in respect of injury resulting in death such damages may be awarded as are proportioned to the injury resulting from the death to the persons respectively for whom and for whose benefit the action is brought.

Measure of damages recoverable and apportionment. [50 of 1976].

(2) The amount so recovered, after deducting the costs, if any, not recovered from the defendant, shall be divided among the persons mentioned above in such shares as are determined at the trial.

(3) It shall be sufficient, if the defendant is advised to pay money into Court, that he pay it as a compensation in one sum to all persons entitled under this Act for his wrongful act, neglect or default, without specifying the shares into which it is to be divided by the Court; and if the said sum is not accepted and an issue is taken by the plaintiff as to its sufficiency, and the Court

shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue.

Exclusion of certain benefits in assessment of damages. [50 of 1976]. 22 & 23 Geo. 5 c. 36 (U.K.).

**8.** In assessing damages in respect of a person's death in any action under this Act or under the Carriage by Air Act 1932 (whether commenced before or after this section comes into operation) no account shall be taken of any of the following moneys paid or payable on the death of such person:

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- (a) payments under any contract of insurance (including the return of premiums);
- (b) benefits under the National Insurance Act, or any similar written law relating to social security;
- (c) payment by a friendly society or similar body or a trade union for the relief or maintenance of the dependants of deceased members;
- (d) payments by way of pension or gratuity to the dependants of a deceased person under any written law, pension scheme or agreement (including the return of any contributions or the payment of any lump-sum in respect of any service done by the deceased person).

Trial of action. [50 of 1976].

**9.** Every action for recovery of compensation under this Act shall be brought in the High Court.

#### SUPPLEMENTAL

Funeral expenses.

**10.** In an action brought under this Act, 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.

Act binds State. [50 of 1976].

**11.** This Act binds the State.