

The Fatal Accidents Act

being

Chapter 92 of *The Revised Statutes of Saskatchewan, 1940*
(effective February 1, 1941).

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER 92

An Act respecting Compensation for Fatal Accidents

Short title

- 1 This Act may be cited as *The Fatal Accidents Act*.

R.S.S. 1930, c.75, s.1; R.S.S. 1940, c.92, s.1.

Interpretation

- 2 In this Act, unless the context otherwise requires, the expression:

“Child”

1. “**Child**” includes son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted child, and a person to whom the deceased stood *in loco parentis*;

“Parent”

2. “**Parent**” includes father, mother, grandfather, grandmother, stepfather, stepmother, a person who adopted a child, and a person who stood *in loco parentis* to the deceased;

“Administrator”

3. “**Administrator**” means an administrator appointed by the courts of Saskatchewan.

R.S.S. 1930, c.75, s.2; R.S.S. 1940, c.92, s.2.

Liability for damages

- 3(1) Where the death of a person has been caused by such wrongful act, neglect or default as, if death had not ensued, would have entitled the person 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 was caused under circumstances amounting in law to culpable homicide.

- (2) The action shall be brought in the Court of King’s Bench.

R.S.S. 1930, c.75, s.3; R.S.S. 1940, c.92, s.3.

Who benefits by action

- 4(1) Every such action shall be for the benefit of the wife, husband, parent and child of the person whose death was so caused, and except as hereinafter provided shall be brought by and in the name of the executor or administrator of the deceased, and in every such action 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; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the before mentioned persons in such shares as may be determined at the trial.

(2) In an action brought under this Act damages may also be awarded in respect of:

(a) any medical or hospital expenses of the person injured, consequent upon such injury, which would have been recoverable as damages by the person injured if death had not ensued; and

(b) the funeral expenses of the deceased person;

if such expenses have been incurred by any of the parties for whom and for whose benefit the action is brought.

(3) Subsection (2) shall not apply in relation to an action in respect of the death of any person before the first day of June, 1940.

(4) In assessing the damages in the action there shall not be taken into account any sum paid or payable on the death of the deceased or any future premiums payable under any contract of assurance or insurance whensoever effected.

R.S.S. 1930, c.75, s.4; 1940, c.32, s.1; R.S.S. 1940, c.92, s.4.

Payment court

5 The defendant may pay into court one sum of money as compensation for his wrongful act, neglect or default, to all persons entitled to such compensation without specifying the shares into which it is to be divided.

R.S.S. 1930, c.75, s.5; R.S.S. 1940, c.92, s.5.

One action only for same cause

6 Not more than one action shall lie for and in respect of the same subject matter of complaint; and every such action shall be commenced within twelve months after the death of the deceased person.

R.S.S. 1930, c.75, s.6; R.S.S. 1940, c.92, s.6.

Particulars of beneficiaries

7(1) The plaintiff shall, in his statement of claim, set forth or deliver therewith full particulars of the persons for whom and on whose behalf the action is brought.

(2) There shall be filed with the statement of claim an affidavit by the plaintiff in which he shall state that to the best of his knowledge, information and belief the persons on whose behalf the action is brought as set forth in the statement of claim or the particulars delivered, are the only persons entitled or who claim to be entitled to the benefit thereof.

(3) The court in which the action is brought or a judge thereof, if of opinion that there is a sufficient reason for doing so, may dispense with the filing of the affidavit.

R.S.S. 1930, c.75, s.7; R.S.S. 1940, c.92, s.7.

Action by persons beneficially interested

8(1) If there is no executor or administrator of the deceased, or, there being an executor or administrator, no such action is, within six months after the death of the deceased brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by such executor or administrator.

(2) Every action so brought shall be for the benefit of the same persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by such executor or administrator.

R.S.S. 1930, c.75, s.8; R.S.S. 1940, c.92, s.8.

Apportionment

9 Where the compensation has not been otherwise apportioned a judge in chambers may apportion the same among the persons entitled, and may provide for the costs of the application.

R.S.S. 1930, c.75, s.9; R.S.S. 1940, c.92, s.9.

Actions by rival claimants

10 Where actions are brought by or for the benefit of two or more persons claiming to be entitled, as wife, husband, parent or child of the deceased, the court in which the actions or either of them are pending may make such order as it may deem just for the determination not only of the question of the liability of the defendant but of all questions as to the persons entitled under the provisions of this Act to the damages, if any, that may be recovered.

R.S.S. 1930, c.75, s.10; R.S.S. 1940, c.92, s.10.

Application to judge respecting settlement

11(1) Where an action is maintainable under the foregoing provisions of this Act, and some or all of the persons for whose benefit the action is maintainable are infants, and where the executor or administrator of the person deceased has agreed, either before or after the commencement of an action, on a settlement of such claim or action, either the said executor or administrator or the person against whom the claim or action is made or brought, may, on ten days' notice to the opposite party and to the Official Guardian, apply to a judge of the Court of King's Bench sitting in chambers for an order confirming the said settlement.

(2) The judge may on the application confirm or disallow the settlement, but, if the settlement is confirmed by him, the party against whom the claim is made or action brought shall be discharged from all further claims.

(3) The judge may also on the application order the money or a portion thereof to be paid into court or otherwise apportioned and distributed as he may deem best in the interests of those entitled thereto.

R.S.S. 1930, c.75, s.11; R.S.S. 1940, c.92, s.11.

