

## **CHAPTER 193A**

### **ACCIDENT COMPENSATION (REFORM)**

1980-60

This Act came into operation on 22nd January, 1981 by Proclamation (S.I. 1981 No. 9).

#### **Amended by:**

This Act has not been amended

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1985



## **CHAPTER 193A**

### **ACCIDENT COMPENSATION (REFORM) 1980-60**

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**BARBADOS**

## ACCIDENT COMPENSATION (REFORM)

1980-60

*An Act respecting the recovery of compensation for injury caused by accident, inter alia.*

[Commencement: 22nd January, 1981]

**Short title**

1. This Act may be cited as the *Accident Compensation (Reform) Act*.

**Definitions**

- 2.(1) In this Act,

“action” means an action under section 3;

“dependant” means

- (a) the wife or husband of the deceased,
- (b) a person who is a spouse of the deceased within the meaning of the *Succession Act*, Cap. 249,
- (c) a person who is divorced from the deceased and who establishes a dependency on the deceased,

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- (d) any person who is a parent of the deceased,
- (e) any person who is a child of the deceased,
- (f) any person who is, or is the issue of, a brother, sister, uncle or aunt of the deceased;

“injury” includes any disease and any impairment of a person’s mental or physical condition;

“parent” means father, mother, grandfather, grandmother, stepfather and stepmother.

(2) For the purposes of subsection (1) the reference to “child” includes a reference to a legally adopted child, a grandchild and a stepchild.

### **Right of action for wrongful act causing injury or death**

**3.** Where, after 22nd January, 1981, injury or death is caused by the fault or neglect of another under circumstances where the person is entitled to recover damages, or would have been entitled to recover if not killed, the dependants of the person are entitled to recover their pecuniary loss resulting from the injury or death from the person from whom the person injured or killed is entitled to recover or would have been so entitled if not killed, and to maintain an action for the purpose in a court of competent jurisdiction.

### **Contributory negligence**

**4.** In an action, the right to damage is subject to any apportionment of damages due to contributory fault or neglect of the person who was injured or killed.

### **Commencement of action**

**5.** A person who commences an action under this Act shall

- (a) file with the statement of claim an affidavit stating that to the best of his knowledge, information and belief the persons named in the

statement of claim are the only persons who are entitled or claimed to be entitled to damages under this Act; and

- (b) in the statement of claim, name and join the claim of any other person who is entitled to maintain an action under this Act in respect of the same injury or death and thereupon such person becomes a party to the action.

### **Executor to sue where death result**

6.(1) An action under this Act in respect of a person who is killed shall be commenced by and in the name of the executor or administrator of the deceased for the benefit of the person entitled to recover.

(2) Where

- (a) there is no executor or administrator; or
- (b) there is an executor or administrator and no action is, within 6 months after the death of the deceased, brought by and in the name of the executor or administrator

an action may be brought by all or any of the dependants for whose benefit the action would have been if it had been brought by the executor or administrator.

### **Limitation on time and action**

7.(1) Notwithstanding any enactment or rule of law to the contrary, an action must be commenced within 3 years from the time the cause of action arose.

(2) In no case shall more than one action lie for and in respect of the same occurrence.

### **Assessment of damages**

8. Damages recoverable under this Act may include

- (a) actual out-of-pocket expenses reasonably incurred for the benefit of the injured person;

- (b) a reasonable allowance for travel expenses actually incurred in visiting the injured person before his death or during his treatment or recovery;
- (c) reasonable funeral expenses, if those expenses have actually been incurred in respect of the burial of the person for whose death the action is brought;
- (d) where, as a result of the injury, the dependants provide nursing, house-keeping or other services for the injured person, a reasonable allowance for the loss of income or value of the services;
- (e) an amount to compensate for the loss of guidance, care and companionship that the dependants might reasonably have expected to receive from the injured person if the injury had not occurred.

**Assessment of damages: disregard of certain benefits**

9.(1) In determining the amount of damages to be awarded under this Act, the court shall not take into account

- (a) the remarriage of a surviving spouse or any prospects of remarriage by a surviving spouse, as a result of the death of the husband or wife, as the case may be; and
- (b) any insurance money, benefit, pension or gratuity which has been paid or is likely to be paid as a result of death or injury.

(2) For the purposes of this section

“benefit” means a benefit under the *National Insurance and Social Security Act*, Cap. 147 and any payment by a friendly society or trade union for the relief or maintenance of a member’s dependants;

“insurance money” includes a return of premiums;

“pension” includes a return of contributions and any payment of a lump sum in respect of a person’s employment.

**Apportionment and payment into court**

**10.(1)** Where damages are awarded under this Act, the amount so recovered after deducting the costs not recovered from the defendant, shall be divided among the dependants in such shares as may be directed.

(2) Money paid into court in satisfaction of a cause of action may be in one sum without specifying the dependants' shares.

(3) Where the money paid into court has not been otherwise apportioned, the court may, upon application, apportion it among the persons entitled thereto.

**Abolition of damages for loss of consortium**

**11.** The rule of law whereby a husband is entitled to claim damages for loss of consortium as a consequence of a tortious act committed against his wife by a third person is hereby abolished.

**Abolition of damages for enticement, harbouring, or loss of services of child**

**12.** The rule of law whereby a parent is entitled to claim damages for the enticement, harbouring or loss of services of his child is hereby abolished.

**Application to the Crown**

**13.** This Act binds the Crown.