

**DAYANAND COLLEGE OF LAW, LATUR.**

**Subject-Insurance Law.**

**Class- LL.M(Business) Sem 2<sup>nd</sup>.**

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**THE FATAL ACCIDENT ACT,1855.**

The Fatal Accidents Act of 1855 is a British law that allows the dependents of a person who has died due to a wrongful act, neglect, or default of another party to claim compensation for their loss. The act gives certain family members the right to bring a civil action against the responsible party. It has been used as a basis for similar legislation in other countries as well.

### **OBJECTIVE AND REASON OF THE ACT.**

The main objective of the Fatal Accidents Act of 1855 was to provide a legal remedy for the financial losses suffered by the dependents of a person who died as a result of another party's wrongful act, neglect, or default. Prior to this act, there was no provision for recovering damages on behalf of the deceased's family members in such cases.

The reasons behind the enactment of this law included a recognition of the hardships faced by the family members who depended on the deceased for financial support, especially in cases where the deceased was the primary breadwinner. The act

aimed to address the injustice of the family members being left without any means of support due to the actions or negligence of others.

The act also intended to encourage greater care and responsibility by individuals and organizations to prevent accidents that could result in loss of life. By holding responsible parties accountable for their actions, the act sought to deter negligence and wrongful behavior.

Overall, the Fatal Accidents Act of 1855 aimed to strike a balance between providing compensation to the dependents of the deceased and promoting greater accountability for actions that led to fatal accidents.

### **ASSESSMENT OF COMPENSATION**

The Fatal Accidents Act of 1855 allows for compensation to be assessed and awarded to the dependents of a deceased person who died due to the wrongful act, neglect, or default of another party. The compensation is intended to cover the financial loss suffered by the dependents as a result of the death.

The act doesn't specify a fixed formula for calculating compensation, but it provides guidelines for determining the amount. The compensation is assessed based on the actual

financial loss suffered by the dependents, taking into consideration factors such as the deceased's income, life expectancy, and the financial dependency of the claimants on the deceased.

Here are the relevant sections of the Fatal Accidents Act of 1855 that pertain to the assessment of compensation:

**\*\*Section 1:\*\*** Defines the scope of the act and who can bring a claim for compensation (usually close family members).

**\*\*Section 2:\*\*** Provides details about what can be claimed, including damages for pain, suffering, and loss of expectation of life prior to death.

**\*\*Section 3:\*\*** Outlines the distribution of compensation among the claimants and how it should be divided.

**\*\*Section 4:\*\*** Allows for the appointment of a "next friend" to represent a minor or unborn child's interests in the claim.

**\*\*Section 5:\*\*** Addresses how damages should be assessed in cases where the deceased had a reduced life expectancy due to illness or other reasons.

**\*\*Section 6:\*\*** Discusses the impact of contributory negligence on compensation assessment.

**\*\*Section 7:\*\*** Deals with cases where there are multiple dependents and the determination of their respective entitlements.

## **CONTRIBUTORY NEGLIGENCE**

Under the Fatal Accidents Act of 1855, the concept of contributory negligence comes into play when assessing compensation for the death of a person due to a wrongful act, neglect, or default of another party. Contributory negligence refers to a situation where the deceased person's own actions or negligence contributed to the accident that led to their death.

Section 1(1) of the Fatal Accidents Act states that compensation is recoverable "for the benefit of the wife, husband, parent, and child of the person whose death shall have been so caused." However, Section 1(2) introduces the concept of contributory negligence by stating that the compensation recoverable "shall

be a full compensation for all pecuniary loss sustained by the persons for whose benefit the action is brought."

In other words, if it can be established that the deceased person was partially at fault for the accident that resulted in their death, the amount of compensation awarded may be reduced to account for their own contributory negligence. The court will assess the extent to which the deceased's actions contributed to the accident and adjust the compensation accordingly.

It's important to note that the principles of contributory negligence vary from jurisdiction to jurisdiction and can be subject to legal interpretations. In some cases, if the deceased's negligence is found to be significant, it might result in a complete bar to recovery of compensation. It's advisable to consult with legal experts familiar with the specific jurisdiction's laws to understand how contributory negligence might impact compensation under the Fatal Accidents Act of 1855.

### **APORTIONMENT OF COMPENSATION AND LIABILITY**

Under the Fatal Accidents Act of 1855, the apportionment of compensation and liability is an important aspect when determining the amount of compensation that should be awarded to the dependents of a deceased person. The act addresses how compensation should be distributed among the claimants and how liability for the death should be apportioned.

### **\*\*Apportionment of Compensation:\*\***

Section 3 of the Fatal Accidents Act deals with the distribution of compensation among the claimants. It states that the court has the power to determine how the compensation should be divided among the individuals who are entitled to claim under the act. The court considers the relationships between the deceased and the claimants, as well as their respective financial dependencies.

### **\*\*Apportionment of Liability:\*\***

The act does not directly address apportionment of liability among multiple parties responsible for the death. However, in cases where there are multiple parties at fault, principles of general tort law may come into play. This means that if multiple parties' wrongful acts or negligence contributed to the death, they may be held jointly and severally liable. This allows the claimants to seek compensation from any or all of the responsible parties, with the parties being responsible for working out any contribution agreements among themselves.

It's important to note that the application of the Fatal Accidents Act can vary based on jurisdiction and the specifics of the case.