

2391

2009-2010 Regular Sessions

I N S E N A T E

February 19, 2009

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law, in relation to payment and distribution of damages in wrongful death actions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph (a) of section 5-4.3 of the estates, powers and  
2 trusts law, as amended by chapter 100 of the laws of 1982, is amended to  
3 read as follows:

4 (a) The damages awarded to the plaintiff may be such sum as the jury  
5 or, where issues of fact are tried without a jury, the court or referee  
6 deems to be fair and just compensation for the [pecuniary] injuries  
7 resulting from the decedent's death to the persons for whose benefit the  
8 action is brought. In every such action, in addition to any other lawful  
9 element of recoverable damages, [the reasonable expenses of medical aid,  
10 nursing and attention incident to the injury causing death and the  
11 reasonable funeral expenses of the decedent paid by the distributees, or  
12 for the payment of which any distributee is responsible, shall also be  
13 proper elements of damage] FAIR COMPENSATION FOR THE FOLLOWING DAMAGES  
14 MAY BE RECOVERED: (I) REASONABLE FUNERAL EXPENSES OF THE DECEDENT PAID  
15 BY THE DISTRIBUTEES, OR FOR THE PAYMENT OF WHICH ANY DISTRIBUTEE IS  
16 RESPONSIBLE; (II) REASONABLE EXPENSES FOR MEDICAL CARE INCIDENT TO THE  
17 INJURY CAUSING DEATH, INCLUDING BUT NOT LIMITED TO DOCTORS, NURSING,  
18 ATTENDANT CARE, TREATMENT, HOSPITALIZATION OF THE DECEDENT, AND MEDI-  
19 CINES; (III) GRIEF OR ANGUISH CAUSED BY THE DECEDENT'S DEATH, AND FOR  
20 ANY DISORDER CAUSED BY SUCH GRIEF OR ANGUISH; (IV) LOSS OF LOVE, SOCIE-  
21 TY, PROTECTION, COMFORT, COMPANIONSHIP, AND CONSORTIUM RESULTING FROM  
22 THE DECEDENT'S DEATH; (V) PECUNIARY INJURIES, INCLUDING LOSS OF  
23 SERVICES, SUPPORT, ASSISTANCE, AND LOSS OR DIMINISHMENT OF INHERITANCE,  
24 RESULTING FROM THE DECEDENT'S DEATH; AND (VI) LOSS OF NURTURE, GUIDANCE,  
25 COUNSEL, ADVICE, TRAINING, AND EDUCATION RESULTING FROM THE DECEDENT'S

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 DEATH. Interest upon the principal sum recovered by the plaintiff from  
2 the date of the decedent's death shall be added to and be a part of the  
3 total sum awarded.  
4 S 2. This act shall take effect immediately and shall apply to all  
5 trials commenced on or after such date.