S T A T E O F N E W Y O R K

2872

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. WEINSTEIN, DINOWITZ, BRODSKY, EDDINGTON, FIELDS, MAYERSOHN, ORTIZ, BOYLAND, MARKEY, PERALTA, RAMOS -- Multi-Sponsored by -- M. of A. AUBRY, CLARK, COOK, CYMBROWITZ, DIAZ, GLICK, GOTTFRIED, GREENE, HIKIND, HOOPER, JACOBS, JAFFEE, LATIMER, LIFTON, LUPARDO, McENENY, PHEFFER, SCARBOROUGH, WEISENBERG -- read once and referred 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:

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

(a) The damages awarded to the plaintiff may be such sum as the jury or, where issues of fact are tried without a jury, the court or referee deems to be fair and just compensation for the [pecuniary] injuries resulting from the decedent's death to the persons for whose benefit the action is brought. In every such action, in addition to any other lawful element of recoverable damages, [the reasonable expenses of medical aid, nursing and attention incident to the injury causing death and the reasonable funeral expenses of the decedent paid by the distributees, or for the payment of which any distributee is responsible, shall also be proper elements of damage] FAIR COMPENSATION FOR THE FOLLOWING DAMAGES MAY BE RECOVERED: (I) REASONABLE FUNERAL EXPENSES OF THE DECEDENT PAID BY THE DISTRIBUTEES, OR FOR THE PAYMENT OF WHICH ANY DISTRIBUTEE IS RESPONSIBLE; (II) REASONABLE EXPENSES FOR MEDICAL CARE INCIDENT TO THE INJURY CAUSING DEATH, INCLUDING BUT NOT LIMITED TO DOCTORS, NURSING, ATTENDANT CARE, TREATMENT, HOSPITALIZATION OF THE DECEDENT, AND MEDICINES; (III) GRIEF OR ANGUISH CAUSED BY THE DECEDENT'S DEATH, AND FOR ANY DISORDER CAUSED BY SUCH GRIEF OR ANGUISH; (IV) LOSS OF LOVE, SOCIETY, PROTECTION, COMFORT, COMPANIONSHIP, AND CONSORTIUM RESULTING FROM

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

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THE DECEDENT'S DEATH; (V) PECUNIARY INJURIES, INCLUDING LOSS OF SERVICES, SUPPORT, ASSISTANCE, AND LOSS OR DIMINISHMENT OF INHERITANCE, RESULTING FROM THE DECEDENT'S DEATH; AND (VI) LOSS OF NURTURE, GUIDANCE, COUNSEL, ADVICE, TRAINING, AND EDUCATION RESULTING FROM THE DECEDENT'S DEATH. Interest upon the principal sum recovered by the plaintiff from the date of the decedent's death shall be added to and be a part of the total sum awarded.

S 2. This act shall take effect immediately and shall apply to all trials commenced on or after such date.