



Damages (Scotland) Act 2011

2011 asp 7

4 Sums of damages payable to relatives

- (1) B is liable under this subsection to pay—
 - (a) to any relative of A who is a member of A's immediate family, such sums of damages as are mentioned in paragraphs (a) and (b) of subsection (3),
 - (b) to any other relative of A, such sum of damages as is mentioned in paragraph (a) of that subsection.
- (2) But, except as provided for in section 5, no such liability arises if the liability to pay damages to A (or to A's executor) in respect of the act or omission—
 - (a) is excluded or discharged, whether by antecedent agreement or otherwise, by A before A's death, or
 - (b) is excluded by virtue of an enactment.
- (3) The sums of damages are—
 - (a) such sum as will compensate for any loss of support which as a result of the act or omission is sustained, or is likely to be sustained, by the relative after the date of A's death together with any reasonable expenses incurred by the relative in connection with A's funeral, and
 - (b) such sum, if any, as the court thinks just by way of compensation for all or any of the following—
 - (i) distress and anxiety endured by the relative in contemplation of the suffering of A before A's death,
 - (ii) grief and sorrow of the relative caused by A's death,
 - (iii) the loss of such non-patrimonial benefit as the relative might have been expected to derive from A's society and guidance if A had not died.
- (4) The court, in making an award under paragraph (b) of subsection (3) is not required to ascribe any part of the award specifically to any of the sub-paragraphs of that paragraph.
- (5) For the purpose of subsection (1)(a)—
 - (a) a relative of A is a member of A's immediate family if the relative falls within any of paragraphs (a) to (d) of the definition of "relative" in section 14(1),
 - (b) paragraphs (a)(i) and (b) of section 14(2) are to be disregarded.