



Damages (Scotland) Act 2011

2011 asp 7

2 Transmission of deceased's rights to executor

- (1) There are transmissible to a deceased person's executor ("E") the like rights to damages, including a right to damages for non-patrimonial loss, in respect of injuries suffered by the deceased ("A") and vested in A immediately before A's death, being—
 - (a) personal injuries, or
 - (b) injuries which, though not personal injuries, are—
 - (i) injuries to name or reputation, or
 - (ii) injuries resulting from harassment actionable under section 8 of the Protection from Harassment Act [1997 \(c.40\)](#).
- (2) The "like rights" mentioned in subsection (1) do not include any right to damages by way of compensation for patrimonial loss attributable to any period after the date of death; and in determining the amount of damages for non-patrimonial loss payable to E by virtue of this section, the only period to which the court is to have regard is that ending immediately before A's death.
- (3) In so far as a right to damages vested in A comprises a right to damages for non-patrimonial loss in respect of such injuries as are mentioned in sub-paragraph (i) of subsection (1)(b), that right is transmissible to E only if an action to enforce the right is brought by A and is not concluded before A's death.
- (4) For the purposes of subsection (3) an action is not to be taken to be concluded—
 - (a) while an appeal is competent, or
 - (b) before any appeal taken is disposed of.