

89022

GENERAL STATUTES OF
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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mitted, or that the owner of said leasehold cannot be found within the state. The mortgagee may be appointed receiver in the discretion of the court. ('15 c. 305 § 2)

[8173—]3. **Same—Bond**—Before entering upon his duties the receiver so appointed shall file in court a bond for the faithful performance of such duties on his part. Said bond shall run to the owner of the mortgaged leasehold and shall be in such sum as the court shall determine and with such surety or sureties as shall be approved by the court. ('15 c. 305 § 3)

[8173—]4. **Same—Powers of**—After filing the bond above mentioned the receiver shall enter into possession of the mortgaged premises and collect all the rents and income therefrom, and shall apply the same to the payment of the expenses of the receivership and to the payment of all sums of money necessary or proper to preserve and protect said leasehold estate, and to maintain and operate the mortgaged premises, and shall pay the surplus (if any) to the owner of the mortgaged leasehold at the termination of the receivership. The receiver may make any or all such payments on his own motion or may make the same in pursuance of an order of the court. Said expenses shall include reasonable attorneys' fees and receiver's fees to be fixed by the court. ('15 c. 305 § 4)

[8173—]5. **Same—Accounts, etc.**—At the termination of the receivership for any cause the receiver shall file his account in said court. On the approval and confirmation of such account the receiver shall dispose of the funds in his hands in accordance with the order of court, and shall thereupon be entitled to a discharge by order of court, freeing and releasing him from all further liability on account of such receivership. ('15 c. 305 § 5)

[8173—]6. **Same—Not to limit other remedies**—The provisions of this act shall in no manner detract from or limit the rights and remedies of the mortgagor or mortgagee respectively now or hereafter provided by law. ('15 c. 305 § 6)

CHAPTER 84

ACTIONS BY OR AGAINST PERSONAL REPRESENTATIVES AND HEIRS

8174. What causes of action survive—

131-365, 155+396; notes under § 7685.

Acción on liquor dealer's bond is on contract and in tort and survives the death of the licensee (121-450, 141+793, 47 L. R. A. [N. S.] 183). Abatement and Revival, Ⓒ53.

An action to restrain obstruction of a roadway, in which the issue was as to whether the road was a public one by virtue of an agreement relating to the opening of the way and acts done in pursuance of such agreement, affects interests in land and does not abate on the death of a party (133-128, 156+7). Abatement and Revival, Ⓒ58(2).

8175. Action for death by wrongful act—

Cited (132-344, 157+506).

Complaint—Allegations in an action for wrongful death held not to justify an inference that decedent was guilty of contributory negligence (126-133, 147+964). Master and Servant, Ⓒ256(1).

Complaint in an action for wrongful death held to show negligence on the part of defendant railroad company in leaving a car standing without brakes being set so that it was propelled against decedent without notice or warning (126-133, 147+964). Master and Servant, Ⓒ258(13).

Defenses—As to a deceased wife, for whose death recovery is sought for the benefit of the husband and children, the evidence held that intestate was not guilty of contributory negligence as matter of law, barring recovery for fatal injuries received in a collision of an automobile driven by her husband, in which she was riding, with defendant's automobile (161+715). Highways, Ⓒ213(4).

Contributory negligence of decedent (129-206, 152+137). Death, Ⓒ23.

Imputation to deceased wife of negligence of her husband in driving an automobile in which decedent was riding when she received fatal injuries in a collision with defendant's automobile (see 161+715). Negligence, Ⓒ93(2).

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766 ACTIONS BY OR AGAINST PERSONAL REPRESENTATIVES AND HEIRS § 8175

The contributory negligence of one of several beneficiaries is not a bar to all recovery under this section, and where no apportionment or reduction to the extent of his interest is asked for, full recovery will be allowed (161+715). Negligence, ☞89(1).

Who may sue—A special administrator, appointed in this state, may sue for the wrongful death in this state of his intestate, a nonresident (129-279, 152+413). Attorney and Client, ☞174.

The surviving spouse and next of kin, as designated in this section, come within the designation of "heirs at law," as used in §§ 7238, 7243 (125-357, 147+278). Death, ☞32.

Damages—The workmen's compensation act held to govern the amount of recovery for death of an employé of a third person resulting from the negligence of defendant, who was also operating under the act (134-113, 158+913). Master and Servant, ☞354, 375(1).

The state of the domestic affairs between plaintiff and her husband at or preceding the time of his death, short of desertion by her or forfeiture of her right to support, cannot be inquired into to defeat a recovery or to reduce damages (127-381, 149+660). Death, ☞69.

The parents of intestate, suing for wrongful death under the federal employers' liability act, held to have suffered a pecuniary loss (128-332, 150+1088). Death, ☞77.

A verdict of \$700 held not excessive for death of a husband, who had abandoned the wife and beneficiary 20 years before the death, and who had discontinued furnishing her support 7 years prior to such death (133-41, 157+904). Death, ☞99(4).

A verdict for \$5,000, reduced by the trial court to \$3,500, for death of a boy of 14, held not excessive (134-451, 159+1076, L. R. A. 1917B, 548). Death, ☞99(3).

A verdict for \$4,585 for death of a farmer 61 years of age, who left a daughter 13 and a son 20 years of age, and four married sons and daughters, is not excessive, as children not presently dependent may be taken into account in assessment of damages (135-37, 159+1087). Death, ☞99(4).

\$7,500 for death of a yard employé of a railroad company, who was strong and healthy, earned from \$90 to \$100 per month, 32 years of age, and leaving a wife, but no children, held excessive, and reduced to \$5,000 (127-381, 149+660). Death, ☞99(4).

Excessiveness of verdict under federal employers' liability act (see 131-166, 154+957). Death, ☞99(1).

Evidence—Burden of proof as to cause of death (see 130-222, 153+529).

Negligence, causing death, held for the jury (128-95, 150+379). Municipal Corporations, ☞819(1), 821(13), 822(2).

Evidence held to support verdict for plaintiff, on the issues of negligence and contributory negligence, for death resulting from a collision of vehicles in a street (127-515, 150+176). Municipal Corporations, ☞706(5).

Evidence held to support verdict as to cause of death, and that deceased was not guilty of contributory negligence, and that he did not assume the risk (129-81, 151+539). Master and Servant, ☞276(2), 280.

Evidence as to negligence and contributory negligence (127-172, 149+24). Master and Servant, ☞278(17), 281(1).

Evidence held to support a finding as to the cause of death and that defendant was guilty of negligence (125-362, 147+279). Master and Servant, ☞119, 276(2).

Evidence held not to require a finding that plaintiff's intestate was guilty of contributory negligence (125-362, 147+279). Master and Servant, ☞265(14), 281(1).

The owner of a taxicab held liable for death of the driver, resulting from defects in the taxicab (122-363, 142+716). Master and Servant, ☞278(3), 280, 281(5).

Evidence held to justify a finding as to the cause of the death of a servant while working on an ore dock (123-308, 143+789). Master and Servant, ☞276(2).

Evidence held to support a recovery for wrongful death of a servant (128-10, 150+169). Master and Servant, ☞278, 289.

Evidence of negligence of employer in failing to keep automatic elevator gates in proper order held to support verdict for wrongful death of employé (129-77, 151+541). Master and Servant, ☞286(18).

Whether plaintiff's intestate was rightfully in defendant's building when a fire occurred therein which caused her death, so that she would have had the same cause of action that the tenants would have had, was a question for a jury (126-144, 148+108). Landlord and Tenant, ☞169(11).

A boy of 7 killed at a railroad crossing, held not conclusively shown to have been guilty of contributory negligence (125-137, 145+804). Railroads, ☞350(14).

Evidence held to present a question for the jury as to contributory negligence of decedent, killed in a collision between an automobile he was driving and a train at a crossing (123-279, 143+722). Railroads, ☞350(13).

Evidence held not to leave the cause of death a matter of speculation or conjecture, so as to make it improper to submit the question to the jury (124-65, 144+434). Negligence, ☞134(11).

On the evidence, held, that it did not conclusively appear that plaintiff's intestate was guilty of contributory negligence or that he assumed the risk (124-65, 144+434). Negligence, ☞135.

Limitations—In an action on the bond of a police officer to recover damages for wrongfully killing plaintiff's intestate, the principal defendant having answered without raising the objection that the action was barred by limitations, held, that the sureties on the bond were not entitled to raise that objection, there being no evidence of collusion between plaintiff and the principal defendant (134-78, 158+908). Limitation of Actions, ☞167(1).

Death in another state—What laws govern—An action for death occurring in another state is governed by the laws of that state (124-195, 144+942). Death, ☞8.

Concurrent negligence—Joinder of actions—Causes of action for concurrent negligence of two defendants, resulting in wrongful death, may be joined, where the facts concerning the negligence are identical as to time, place, and result (124-531, 144+474). Parties, ☞27.

Liability of administrator's bondsmen—A surety on an administrator's bond executed under § 7416 is liable for the proceeds of the settlement of an action brought under this section (123-165, 143+255). Executors and Administrators, ☞528(1).

8182. Heirs and devisees—When liable—

An action may be maintained under this act without first presenting the claim to the probate court, where the sole property inherited by defendants is a homestead, and the debt is for labor performed by a servant which is excepted by Const. art. 1 § 12, from the operation of the homestead exemption statute, there having been no order limiting the time for filing claims in the probate court, and § 7320 providing that such order need not be made where the only property of the estate is a homestead (161+413). Descent and Distribution, ☞140.

CHAPTER 84A

WORKMEN'S COMPENSATION

PART 1

8195. Injury or death of employé—Liability of employer—Compensation by action at law—Modification of remedies—

126-286, 148+71, L. R. A. 1916D, 412; note under § 8202.

Construction and application—This act is remedial, and must be given a liberal construction (128-43, 150+211; 131-352, 155+103). Master and Servant, ☞348.

An injury may be received in the course of the employment, and still have no causal connection with it, so that it can be said to arise out of the employment (129-176, 151+912). Master and Servant, ☞371.

A teamster, while driving his employer's team on a street in the discharge of his duties, and who was killed by the falling of iron beams being hoisted to the top of a building in course of construction, is subject to this act, the accident being one arising out of and in the course of his employment (134-113, 158+913). Master and Servant, ☞354, 375(1).

A student elevator operator, though not possessing a license under § 1432, was an employé within the compensation act at the time of his injury, which occurred two weeks after he started with his employment, and while he was operating the elevator alone during the absence of his instructor (133-109, 157+995). Evidence, ☞67(1); Master and Servant, ☞361, 366, 405(2).

Injury to a bartender caused by being struck by a glass hurled by a patron of the saloon, who was so drunk that he did not know the nature of his act was one arising out of the employment of the bartender, so as to entitle him to compensation (134-16, 158+713, L. R. A. 1916F, 957). Master and Servant, ☞373.

A workman employed in this state, while working in Wisconsin, where he receives an injury, is subject to the compensation act of Wisconsin, the provisions of which had been accepted by the employer (128-158, 150+620). Master and Servant, ☞86.

Constitutionality—This act is not unconstitutional, in that it deprives the parties of a jury trial, that it deprives the employer of his property without due process of law, that it encroaches on the judiciary, or that it impairs the obligation of contracts of employment entered into before the act took effect (128-221, 150+623). Constitutional Law, ☞80(1), 146, 301, 329.

The workmen's compensation act of Wisconsin held not unconstitutional (128-158, 150+620).

Evidence—Evidence held to sustain findings that death of an employé stricken with paralysis while wheeling wheelbarrow, was caused by rupture of a blood vessel caused by his muscular strain and exertion (162+678). Master and Servant, ☞405(4).

Where a boy of 17 in previous good health dropped dead at the moment of contact with an electric wire while he was working on a wet cement floor, the circumstances sustained a finding of an accidental and not a natural death (134-324, 159+755). Master and Servant, ☞405(4).

Evidence as to intoxication of an employé at the time of an accident held to present a question of fact, the finding on which was conclusive on the appellate court (128-221, 150+623).

Bar to recovery—An action by the representatives of a deceased employé against the master for wrongful death, in which judgment for defendant was rendered on a demurrer to the complaint, for the reason that plaintiff's remedy was under this act, does not involve