

Automobile Accident Insurance Benefits Regulations, Alta Reg 352/1972 (November 10, 2020)

Subsection 2 - Death, Grief Counselling, Funeral and Total Disability

Part 1 - Death, Grief Counselling and Funeral Benefits

Subject to the provisions of this Part 1, for death, a payment of a principal sum - based on the age and status at the date of the accident of the deceased in a household where the head of the household or the spouse/adult interdependent partner or dependants survive - of the following amount:

Age of Deceased at Date of Accident	Status of Deceased at Date of Accident		
	Head of Household	Spouse/Adult Interdependent Partner	Dependent Relative
Up to age of 4 years	-	-	\$1000
5 to 9 years	-	-	2000
10 to 17 years	\$10 000	\$10 000	3000
18 to 64 years	10 000	10 000	2000
65 to 69 years	10 000	10 000	2000
70 years and over	10 000	10 000	1000

In addition, funeral service expenses up to the amount of \$6150 in respect of the death of any one person.

In addition, grief counselling expenses up to the amount of \$500 per family in respect of the death of any one person.

In addition, with respect to the death of the head of household,

- (a) where there are 2 or more survivors who are
 - (i) a spouse/adult interdependent partner and one or more dependent relatives, or
 - (ii) 2 or more dependent relatives,the principal sum payable is increased 20% for each survivor other than the first, and
- (b) where there is a spouse/adult interdependent partner or dependent relative survivor living in the household, the death benefit is increased
 - (i) by \$15 000 for the first spouse/adult interdependent partner or dependent relative survivor, and
 - (ii) by a subsequent \$4000 for each of the remaining survivors.

For the Purposes of this Part 1

- (1) “head of household” means that member of a household with the largest income in the year preceding the date of the accident;
- (2) “dependent relative” means a person

 - (a) under the age of 18 years for whose support the head of household or the spouse/adult interdependent partner of the head of household (or both of them) is legally liable and who is dependent upon either or both of them for financial support; or
 - (b) 18 years of age or over and residing in the same dwelling premises as the head of household who, because of mental or physical infirmity, is principally dependent on the head of household or the spouse/adult interdependent partner of the head of household (or both the head of household and the spouse/adult interdependent partner) for financial support;
- (2.1) If the head of household has both a spouse and an adult interdependent partner, a reference to spouse/adult interdependent partner or surviving spouse/adult interdependent partner means

 - (a) the spouse or surviving spouse, or
 - (b) the adult interdependent partner or surviving adult interdependent partner living in the same dwelling premises as the head of household.
- (3) the total sum payable shall be paid with respect to death of head of household or spouse/adult interdependent partner to the surviving spouse/adult interdependent partner. If there is no surviving spouse/adult interdependent partner in the household, no amount shall be payable unless there are surviving dependent relatives, and in that event the total sum payable shall be divided equally among the surviving dependent relatives.
- (4) The total amount payable with respect to death due to a common disaster of head of household and spouse/adult interdependent partner shall be paid equally to surviving dependent relatives.
- (5) The sum payable with respect to the death of a dependent relative shall be paid to the head of household or, if he does not survive, to the surviving spouse/adult interdependent partner of the head of household but, if neither the head of household nor the spouse/adult interdependent partner survives, no amount is payable.
- (6) amounts payable under this Part I shall be paid only to a person who is alive 60 days after the death of the insured person.
- (7) the amount payable under this Part I for the death of any person shall be reduced by the amount of any payments made to or for such person with respect to the same accident under Part II, Total Disability.
- (8) The amount payable under this Part for grief counselling is payable to the spouse/adult interdependent partner or other immediate family member of the deceased in respect of grief counselling for the immediate family members of an insured person who dies as a result of the accident.



Fatal Accidents Act, RSA 2000, c F-8

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FATAL ACCIDENTS ACT

Chapter F-8

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “child”, except in [section 8](#), includes a son, daughter, grandson, granddaughter, stepson and stepdaughter;
- (b) repealed 2002 cA-4.5 s36;
- (c) “parent” includes a father, mother, grandfather, grandmother, stepfather and stepmother.
- (d) repealed 2002 cA-4.5 s36.

RSA 2000 cF-8 s1;2002 cA-4.5 s36;2010 c6 s2

Action for damages

2 When the death of a person has been caused by a wrongful act, neglect or default that would, if death had not ensued, have entitled the injured party to maintain an action and recover damages, in each case the person who would have been liable if death had not ensued is liable to an action for damages notwithstanding the death of the party injured.

RSA 1980 cF-5 s2

Persons entitled to benefits

3(1) An action under this Act

- (a) shall be for the benefit of the spouse, adult interdependent partner, parent, child, brother or sister of the person whose death has been so caused, and
- (b) shall be brought by and in the name of the executor or administrator of the person deceased,

and in the action the court may give to the persons respectively for whose benefit the action has been brought those damages that the court considers appropriate to the injury resulting from the death.

(2) If there is no executor or administrator, or if the executor or administrator does not bring the action within one year after the death of the party injured, then the action may be brought by and in the name of all or any of the persons for whose benefit the action would have been, if it had been brought by or in the name of the executor or administrator.

(3) Every action so brought shall be for the benefit of the same persons and is as nearly as possible subject to the same regulations and procedure as if it were brought by and in the name of the executor or administrator.

RSA 2000 cF-8 s3;2002 cA-4.5 s36

Number of actions

4 Not more than one action lies for and in respect of the same subject-matter of complaint.

RSA 1980 cF-5 s4

Death of person liable for damages

5(1) If a person dies who would have been liable to an action for damages under this Act had the person continued to live, then, whether the person died before or after or at the same time as the person whose death was caused by wrongful act, neglect or default, an action may be brought and maintained or, if pending, may be continued against the executor or administrator of the deceased person.

(2) If neither probate of the will of the deceased person mentioned in subsection (1) nor letters of administration of the person's estate have been granted in Alberta, a judge of the Court of Queen's Bench may, on the application of any party intending to bring or to continue an action under this section and on the terms and on the notice that the judge may direct, appoint a litigation representative for the estate of the deceased person, and on that appointment being made,

- (a) the litigation representative is a person against whom an action may be brought or continued under subsection (1) and by whom it may be defended,
- (b) the litigation representative may take any steps that a defendant may take in an action, including third party proceedings and the bringing, by way of counterclaim, of any action that survives for the benefit of the estate of the deceased person, and
- (c) a judgment in favour of or against the litigation representative in that action has the same effect as a judgment in favour of or against, as the case may be, the deceased person, but it has no effect whatsoever for or against the litigation representative in the litigation representative's personal capacity.

RSA 2000 cF-8 s5;2011 c14 s10

Insurance money

6 In assessing damages in an action brought under this Act, there shall not be taken into account a sum paid or payable on the death of the deceased under a contract of insurance.

RSA 1980 cF-5 s6

Damages

7 If an action is brought under this Act and if any of the following expenses and fees were reasonably incurred by any of the persons by whom or for whose benefit the action is brought, then those expenses and fees, in a reasonable amount, may be included in the damages awarded:

- (a) expenses incurred for the care and well-being of the deceased person between time of injury and death;
- (b) travel and accommodation expenses incurred in visiting the deceased between time of the injury and death;
- (c) expenses of the funeral and the disposal of the body of the deceased, including all things supplied and services rendered in connection with the funeral and disposal;
- (d) fees paid for grief counselling that was provided for the benefit of the spouse, adult interdependent partner, parent, child, brother or sister of the person deceased.

RSA 2000 cF-8 s7;2002 cA-4.5 s36

Damages for bereavement

8(1) In this section,

- (a) “child” means a son or daughter;
- (b) “parent” means a mother or father.

(2) If an action is brought under this Act, the court, without reference to any other damages that may be awarded and without evidence of damage, shall award damages for grief and loss of the guidance, care and companionship of the deceased person of

- (a) subject to subsection (3), \$82 000 to the spouse or adult interdependent partner of the deceased person,
- (b) \$82 000 to the parent or parents of the deceased person to be divided equally if the action is brought for the benefit of both parents, and
- (c) \$49 000 to each child of the deceased person.

(3) The court shall not award damages under subsection (2)(a) to the spouse or adult interdependent partner if the spouse or adult interdependent partner was living separate and apart from the deceased person at the time of death.

(4) Repealed 2002 cA-4.5 s36.

(5) A cause of action conferred on a person by subsection (2) does not, on the death of that person, survive for the benefit of the person’s estate.

RSA 2000 cF-8 s8;2002 cA-4.5 s36;2002 c17 s2;
2010 c6 s3;2013 c23 s7**Review**

9(1) The Executive Council shall review the levels of damages set out in [section 8\(2\)](#) once in every 5 years from June 1, 2002 to determine the adequacy of those levels.

(2) A member of the Executive Council shall inform the Legislative Assembly of the result of the review referred to in subsection (1) at the earliest opportunity after the completion of the review.

RSA 2000 cF-8 s9;2002 c17 s2

Regulations

- 10** The Lieutenant Governor in Council may by regulation
- (a) change the amounts of damages that may be awarded under [section 8\(2\)](#),
 - (b) prescribe the effective date of such change, and
 - (c) provide that such change applies only to deceased persons who die on or after a prescribed date.

1994 c16 s6;1996 c28 s17

Transitional

11(1) In this section, “previous Act” means the [Fatal Accidents Act](#) as it read immediately before it was amended by the [Adult Interdependent Relationships Act](#).

(2) The previous Act continues to apply in cases of death occurring before this section comes into force.

2002 cA-4.5 s36