



## Fatal Accidents / Wrongful Death Heads of Damages

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### I. Preliminary Information

1. Is there a will? A personal representative? WCB involvement?
2. Explore surviving family members and dependents. Names, DOB, relation.

### II. No Fault Benefits

1. Private Life Insurance Benefits
2. Canada Pension Plan Death Benefit
3. Section B Death Benefits or WCB Benefits

### III. Fault Benefits<sup>1</sup>

1. *Fatal Accidents Act* Claims
  - a. Bereavement
  - b. Treatment costs prior to death
  - c. Travel and accommodation expenses for visitation prior to death
  - d. Funeral expenses
  - e. Grief counselling costs
2. *Survival of Actions Act* Claims
  - a. Any actual financial loss suffered by the deceased or his estate. Includes funeral and memorial expenses.
3. Common Law Claims
  - a. Loss of Shared Family Net Income / Support to Dependents, including fringe benefits. **(The “Dependency Claim”)**.
  - b. Loss of Deceased’s Post Retirement Benefits up to end of joint life expectancy.
    - i. Usually part of the Dependency Claim.
  - c. Loss of Future Accumulated Wealth / Loss of Inheritance. (Lost future savings, investments, and capital that would have been inherited by the survivors absent the early death).

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<sup>1</sup> If you have problems obtaining your Section B benefits or have specific questions, call the Section B compliance officer at the Superintendent of Insurance Office at 310-0000, and then (780) 427-8322. It is their job to help you with questions or problems dealing with Section B benefits.

- i. Usually part of the Dependency Claim.
  - ii. *May be countered by “accelerated inheritance” defence.*
- d. Loss of expectation of gifts.
  - i. Usually part of the Dependency Claim.
- e. Loss of Valuable Family Services/Housework, yard work, childcare, etc.
  - i. Make a list and take photographs or video of what the deceased did around the house and yard that now needs to be replaced with paid workers.
  - ii. An Occupational Therapist can be useful in quantifying the details and the value of the lost services.
- f. Voluntary Services performed by family or friends before or following death.
- g. Children’s Loss of Love, Guidance, Education, Training, Encouragement and Companionship.
  - i. *Part of the bereavement claim per s. 8(2) of the Fatal Accidents Act and Palmquist v. Ziegler 2010 ABQB 337 para. 332.*
- h. Loss of Consortium of Surviving Spouse
  - i. *May be part of the bereavement claim<sup>2</sup>*
- i. Management Fee.
- j. Tax Gross up.
- k. “Filial piety” claim of the parents for support that the deceased child would have provided to the parents in certain cultures.

#### IV. Document/Information Required

Regarding the deceased:

- SIN
- Birth Certificate (DOB)
- Death Certificate
- Marriage Certificate (if applicable)
- Confirmation of Employment at time of death – for proof of head of household

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<sup>2</sup> As of November 17, 2018, the law is unclear if a Loss of Consortium claim survives a Fatality. The case of *Herman v. Alberta (Public Trustee)*, 2005 ABQB 926 awarded both bereavement damages and loss of consortium, but this case did not consider the adverse prior cases (See Ms. Cotton’s November 17, 2018 memo on file # 21190 Stewart, found at <S:\Memo and Precedent Bank\Research Memos\2018 onwards\Other memos\2018 11 19 Does Loss of Consortium survive a fatality - Law is unclear.docx>)

- Obituary
- Medical Examiner's Report
- Funeral Invoice / Receipts
- Tax returns

Regarding dependents

- Birth Certificate(s)
- Dependent Adult documents (if applicable)
- Employment status confirmation of dependent relative(s) (i.e. husband / adult interdependent partner)

**V. *Automobile Accident Insurance Benefits Regulations, Alta Reg 352/1972*  
January 2, 2021**

**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 partnerliving 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.