



BELIZE

**TORTS ACT
CHAPTER 172**

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CHAPTER 172

TORTS

Ch. 205,
R.L., 1958.
CAP. 134,
R.E. 1980-1990.

[31st December, 1953]

Short title.

1. This Act may be cited as the Law of Torts Act.

No action to lie against a person where the fire accidentally begins.

2. No action, suit or process whatever shall be had, maintained or prosecuted against any person in whose house, chamber, stable, barn or other building, or on whose estate any fire, after the commencement of this Act, accidentally begins, nor shall any compensation be payable by such person in respect of any damage suffered thereby, any law, usage or custom to the contrary notwithstanding.

Liability of owner of dog for injury to cattle.

3.-(1) The owner of a dog shall be liable in damages for injury done to any cattle or poultry by that dog.

(2) It shall not be necessary for the person seeking such damages to show a previous mischievous propensity in the dog, or the owner's knowledge of such previous propensity, or that the injury was attributable to neglect on the part of the owner.

(3) Where any such injury has been done by a dog, the occupier of any house or premises where the dog was kept or permitted to live or remain at the time of the injury shall be presumed to be the owner of the dog, and shall be liable for the injury unless he proves that he was not the owner of the dog at that time,

Provided that where there are more occupiers than one in any house or premises let in separate apartments or lodgings, or otherwise, the occupier of that particular part of the house or premises in which the dog has been kept or permitted to live or remain at the time of the injury shall be presumed to be the owner of the dog.

(4) In this section,

“cattle” includes horses, mules, asses, sheep, goats and swine;

“poultry” includes domestic fowls, turkeys, geese, ducks, guineafowls and pigeons.

4.—(1) The doctrine of common employment at common law is hereby abolished, and it shall not be a defence to an action against a defendant for damage in respect of personal injuries caused by the wrongful act, neglect or default of a person employed by the defendant, that that person was at the time of the occurrence which caused the injuries in common employment with the plaintiff.

Abolition of doctrine of common employment.

(2) Every provision in a contract of service or apprenticeship, or in an agreement collateral thereto (including a contract or agreement entered into before the commencement of this Act) is void in so far as it has the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the wrongful act, neglect or default of any person in common employment with him.

(3) In this section, “personal injuries” includes any disease and any impairment of a person’s physical or mental condition.

(4) This section binds the State.

5.—(1) Where damage is suffered by any person as a result of a tort (whether a crime or not),

Proceedings against, and contribution between, joint and several tortfeasors.

(a) judgment recovered against any tortfeasor liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tortfeasor in respect of the same damage;

(b) if more than one action is brought in respect of the damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate, or of the wife, husband, parent or child, of that person, against tortfeasors liable in respect of the damage (whether as

joint tortfeasors or otherwise), the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given, and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of opinion that there was reasonable ground for bringing the action;

- (c) any tortfeasor liable in respect of that damage may recover contribution from any other tortfeasor who is, or would if sued have been, liable in respect of the same damage, whether as a joint tortfeasor or otherwise, so, however, that no person shall be entitled to recover contribution under this section from any person entitled to be indemnified by him in respect of the liability in respect of which the contribution is sought.

(2) In any proceedings for contribution under this section, the amount of the contribution recoverable from any person shall be such as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage, and the court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity.

(3) For the purposes of this section,

- (a) the expression "parent" and "child" have the meanings given to them in section 8 of this Act;
- (b) the reference in this section to "the judgment first given" shall, in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed and, in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.

(4) Nothing in this section shall,

- (a) apply with respect to any tort committed before the commencement of this Act;
- (b) affect any criminal proceedings against any person in respect of any wrongful act; or
- (c) render enforceable any agreement for indemnity which would not have been enforceable if this section had not been enacted.

6.--(1) In this section,

Contributory
negligence.

“court” means, in relation to any claim, the court or arbitrator by or before whom the claim falls to be determined;

“fault” means negligence, breach of statutory duty or other duty or other act or omission which gives rise to a liability in tort or would, apart from this Act, give rise to the defence of contributory negligence.

(2) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant’s share in the responsibility for the damage,

Provided that,

- (a) this subsection shall not operate to defeat any defences arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.

(3) Where damages are recoverable by any person by virtue of subsection (2) of this section subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(4) Section 5 of this Act (which relates to proceedings against, and contribution between, joint and several tortfeasors) shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (2) of this section in respect of the damages suffered by any person.

(5) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under section 26 (4) of the Administration of Estates Act, Cap. 197, the damages recoverable would be reduced under subsection (2) of this section, any damages recoverable in an action brought for the benefit of the wife or husband, parent and child of the person under sections 9 and 10 of this Act, shall be reduced to a proportionate extent.

(6) Where, in any case to which subsection (2) of this section applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading the Limitation Act, Cap. 170, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

(7) Where any case to which subsection (2) of this section applies is tried with a jury, the jury shall determine the total damages which would have been recoverable if the claimant had not been at fault and the extent to which those damages are to be reduced.

(8) Article 21 of the Convention contained in the First Schedule to the Carriage by Air Act, 1932, c. 36, (which empowers a court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person), shall have effect subject to the provisions of this section.

7. Section 6 of this Act shall not apply,

- (a) to any claim to which section 1 of the Maritime Conventions Act, 1911 c. 57, applies and that Act shall have effect as if this Act had not passed; or
- (b) to any case where the acts or omissions giving rise to the claim occurred before the passing of this Act.

Saving for Maritime Conventions Act, 1911, and past cases.

8. For the purposes of sections 9 to 16 of this Act inclusive of this Act,

Interpretation.

“child” means son or daughter, step-son or step-daughter, adopted son or adopted daughter under the provisions of the Families and Children Act, Cap. 173, or a grandson or granddaughter;

“parent” means father or mother, step-father or step-mother, adopted father or adopted mother, grandfather or grandmother.

9. Where the death of a person is caused by a wrongful act, neglect or default which is such as would (if death had not ensued) have entitled the party injured to maintain an action for damages in respect of his injury thereby, the person who would have been liable if death had not ensued shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death was caused under such circumstances as amount in law to felony.

Action lies for causing death.

10. Every such action shall be for the benefit of the wife or husband, and every parent and child of the person whose death has been caused, but notwithstanding anything contained in the Limitation Act, Cap. 170, no such action shall be commenced at any time later than twelve months after the death of such deceased person.

For benefit of wife, husband, parent and children.

11. Every such action shall be brought by and in the name of the executor or administrator of the person deceased, but if in any case there is no executor or administrator of the person deceased, or if, there being such executor or administrator, no such action is, within six calendar months after the death of such deceased person, brought by and in the name of such executor or administrator, the action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit the action is hereby given,

By whom to be brought and limitation.

Provided that not more than one action shall lie for and in respect of the same subject matter of complaint.

Damages, how assessed.

12. In every action such damages proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action is brought may be awarded, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the parties for whose benefit the action is brought in such shares as the court or a jury may direct.

Particulars to be filed by plaintiff.

13. In any such action the plaintiff shall state on the writ of summons full particulars of the person or persons for whom and on whose behalf such action is brought, and the nature of the claim in respect of which damages is sought to be recovered.

Payments into Court to be in lump sum.

14. If the defendant in any such action desires to pay money into Court, it shall be sufficient for him to pay it as compensation in one sum to all persons entitled to recover in respect of his wrongful act, neglect or default, without specifying the shares into which the same is to be divided, and if the said sum is not accepted, and the plaintiff proceeds to trial as to its sufficiency, the defendant shall be entitled to judgment if the plaintiff is awarded no greater sum than is paid into Court.

Exclusion of payments by insurers in assessment of damages.

15. In assessing damages in any such action there shall not be taken into account any sum paid or payable on the death of the deceased under any contract of assurance or insurance, whether made before or after the passing of this Act.

Illegitimate relationship within meaning of “parent” and “child”.

16.—(1) For the purposes of sections 8 to 15 of this Act inclusive, a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was only related to him illegitimately, and accordingly in deducing any relationship which under the provisions of this Act is included within the meaning of the expressions “parent” and “child”, any illegitimate person shall be treated as being, or as having been, the legitimate offspring of his mother and reputed father.

(2) For the purposes of an action brought under sections 8 to 15 of this Act inclusive, damages may be awarded in respect of the funeral expenses of the deceased person if such expenses have been incurred by the parties for whose benefit the action is brought.