

131. Suspension of Prescription.

It is a general rule that prescription does not run against a person when it is absolutely impossible in law or in fact for him to take action. Nor does prescription run, as a general rule, against minors or insane persons whether they have tutors or curators or not. But by article 2269 of the Civil Code "Prescriptions which the law fixes at less than thirty years, other than those in favour of subsequent purchasers of immoveables with title and in good faith, and that in case of rescission of contracts mentioned in article 2258 run against minors, idiots, madmen and insane persons, whether or not they have tutors or curators, saving their recourse against the latter." And by article 2262 of the Civil Code actions of damages for bodily injuries prescribe in one year, and therefore fall within the terms of article 2269. It is clear, therefore, that by our law the prescription of such actions runs against minors and other incapable persons. It seems pretty clear that the intention of article 25 of the present Act is to allow the action thereunder to be governed by the same rules as the action for bodily injuries at common law. In France there has been much controversy upon the question if the right of action for compensation was suspended during the minority or interdiction of the workman. The French texts are much less clear upon the point than ours, because article 2278 of the French Code refers to certain short prescriptions only. It does not apply in France to actions for damages for bodily injury which, by the French law, are, in principle, subject only to the thirty years' prescription, though in practice the right of action would, in many cases, be held to have been lost by acquiescence, if no claim had been made within a reasonable time. (1)

(1) See Sourdat, *Responsabilité*, 5th ed., v. 1, n. 636