

The American Acts simply declare that the damages shall not exceed a certain sum.

A mixture of these two methods is adopted in the Ontario and British Columbia Acts, the servant having the privilege of recovering either a fixed sum or one computed on the basis of earnings, whichever may be the larger. The precise amount recoverable within the limit thus fixed is determined, (except in so far as it may be affected by the special provisions in some of the Acts respecting deductions), with reference to the principles which regulate the measure of damages in all actions for personal injuries. An extended discussion of the subject would therefore be out of place in this article.

Where the plaintiff is entitled to damages at common law as well as under the statute, the amount of the indemnity recoverable is not restricted to the sum fixed by that Act (c).

12. Damages recoverable by the representatives of an injured servant.—The various clauses in these statutes by which a right of action is given to the representatives of a deceased servant have been treated as an expression of the intention of the legislatures that the provisions of the Damage Acts and the decisions in which they have been construed are to be regarded as controlling upon the questions of the assessment of damages in cases where death results from the accident in suit.

In England the right of action given to relatives of a deceased person by the earlier Act is not a right given to them *quâ* relatives to recover damages as a solatium for the distress which may be occasioned to them by the death; nor is it a right transmitted to them by the deceased, to recover damages for the loss or for the personal pain and suffering which he endured. It is a right given to the parties named in the statute, to recover damages for the death of their relative, when, and only when, the death has caused such parties a pecuniary loss, and to the extent only of such pecuniary loss (a).

be awarded more than the sum to which his wages at the time of the accident would amount in three years. The damages cannot be augmented by construing the word "earnings" as including the computed value of the tuition he was receiving. That word means money or things capable of being turned into money by accurate estimation. *Noel v. Redruth Foundry Co.* (1896) 1 Q.B. 453, 65 L.J.Q.B.N.S. 330, 74 Law T. Rep. 106, 12 Times L.R. 248.

(c) *O'Connor v. Hamilton Bridge Co.* (1894) 25 Ont. R. 12.

(a) Ruegg on Empl. Liab., pp. 131, et seq., citing *Gillard v. Lancashire & C. R. Co.* (1848) 12 L.T. 356; *Ryan v. Great Northern R. Co.*, 4 B. & S. 396, and other cases.