



## **GUYANA**

**BILL No. 13 of 1983**

**ACCIDENTAL DEATHS AND WORKMEN'S INJURIES (COMPENSATION)  
(AMENDMENT) BILL 1983**

### **ARRANGEMENT OF SECTIONS**

#### **SECTION**

1. Short title.
2. Amendment of the long title of the Principal Act.
3. Amendment of section 1 of the Principal Act.
4. Amendment of section 2 of the Principal Act.
5. Amendment of section 3 of the principal Act.
6. Repeal of sections 8 to 14 of the Principal Act.
7. Insertion of new section 8 of the Principal Act.
8. Insertion of new Part III of the Principal Act.
9. Application of this Act.

A BILL

Intituled

AN ACT to amend the Accidental Deaths and Workmen's Injuries (Compensation) Act.

A.D. 1983 Enacted by the Parliament of Guyana:—

Short title,  
Cap. 99:05

1. This Act, which amends the Accidental Deaths and Workmen's Injuries (Compensation) Act, may be cited as the Accidental Deaths and Workmen's Injuries (Compensation) (Amendment) Act 1983.

Amendment  
of the long  
title of the  
Principal Act

2. The Principal Act is hereby amended by the substitution for the long title of the following long title —

“An Act to make certain provisions relating to damages in cases of accidental death and personal injury.”

Amendment  
of section 1  
of the Prin-  
cipal Act.

3. Section 1 of the Principal Act is hereby amended by the substitution, for the words “Workmen's Injuries (Compensation)”, of the words “Personal Injuries (Damages)”.

Amendment  
of section 2  
of the Prin-  
cipal Act.

4. Section 2 (i) of the Principal Act is hereby amended as follows —

Cap. 46:04

(i) by the insertion, after the word “stepdaughter” in the definition of “child”, of the words “, and a child adopted under the Adoption of Children Act”;

Cap. 46:04

(ii) by the insertion, after the words “stepmother” in the definition of “parent”, of the words “, and a person in whose favour an adoption order has been made under the Adoption of Children Act and, where adoption order has been made in favour of two spouses, both such spouses”;

(iii) by the deletion of the definitions of “person who has superintendence entrusted to him” and “Workman”;

and  
by the insertion of the following definitions in their correct alphabetical order

“husband” includes a reputed husband;

“personal injury” includes any disease and any impairment of the physical or mental condition of a person;

“wife” includes a reputed wife;’.

5. Section 3 of the Principal Act is hereby amended by renumbering section 3 (1) as section 3 and by the repeal of subsections (2), (3) and (4). Amendment of section 3 of the Principal Act.

6. Sections 8 to 14 (inclusive) of the Principal Act are hereby repealed. Repeal of sections 8 to 14 of the Principal Act.

7. The following new section is hereby inserted as section 8 immediately after the heading Part II in the Principal Act — Insertion of new section 8 of the Principal Act.

“Abolition of the doctrine of common employment

8. (1) It shall not be a defence to an employer who is sued for recovery of damages in respect of personal injury, or in respect of death resulting from personal injury, caused by the negligence of a person employed by him, that that person was at the time the injury was caused in common employment with the person injured.

(2) Any provision contained in a contract of service or apprenticeship, or in an agreement collateral thereto, (including a contract or agreement entered into before the commencement of the Accidental Deaths and Workmen’s Injuries (Compensation) (Amendment) Act 1983) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injury, or in respect of death resulting from personal injury, caused to the person employed or apprenticed by the negligence of persons in common employment with him.”.

8. The Principal Act is hereby amended by the insertion immediately after section 8 of the Principal Act (inserted by this Act) of the following Part as Part III — Insertion of new Part III of the Principal Act

**“PART III**

Exclusion of certain benefits in assessment of damages.

9. In assessing damages in an action for recovery of damages in respect of personal injury or in respect of death resulting from personal injury no account shall be taken of any of the following moneys paid or payable as a result of the injury or death —

- (a) payments under any contract of insurance (including the return of premiums);
- (b) benefits under the National Insurance and Social Security Act or any other written law relating to social security, notwithstanding anything contained in that Act or other written law;
- (c) payments by a friendly society or similar body or a trade union for the relief or maintenance of its members or of the dependants of deceased members;
- (d) payments by way of pension or gratuity under any written law, pension scheme or agreement (including the return of any contributions or the payment of any lump-sum in respect of any service).

Assessment of damages for widows.

10. In assessing damages payable to a widow in respect of the death resulting from personal injury of her husband there shall not be taken into account the remarriage of the widow or her prospects of remarriage.

Funeral expenses.

11. In any action for recovery of damages in respect of death resulting from personal injury, 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.

Liability of the State for personal injury to persons employed by State.

12. The liability of an employer for damages in respect of personal injury, or in respect of death resulting from personal injury, caused to a person employed by him shall extend to the State in respect of persons employed by the State as if the State were a private person of full age and capacity.”.

Application of this Act.

13. The amendments made by this Act to the Principal Act shall not have effect in relation to any personal injury caused before the commencement of this Act, or to death resulting from such injury, whether the death

occurs before or after such commencement, or to an action for recovery of damages in respect thereof, whether such action is instituted before or after such commencement.

### EXPLANATORY MEMORANDUM

The Labour Code Commission in its report recommended *inter alia* that legislation be prepared to abolish the doctrine of common employment under which a person injured by the negligence of another cannot claim damages against his employer where he and the person who caused the injury were both engaged in the employment of the same employer. This Bill seeks to give effect to that recommendation as an advance effort to implement the report.

The Bill also seeks to make the State liable for damages in respect of personal injury caused to its employees to the same extent as a private employer.

The Bill seeks to provide also for certain matters which shall or shall not be taken into consideration in the assessment of damages in an action for damages for personal injury or for death resulting from personal injury.

The Bill also seeks to widen the categories of persons for whose benefit an action for damages may be brought where death results from personal injury. Clause 4 of the Bill seeks to extend these benefits to an adopted child, adopting parent, reputed husband and reputed wife of a deceased person.

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(Bill No. 13/1983)