

8.42 SURVIVAL ACTION (Approved 2/96)

In a survival action, the administrator as plaintiff is seeking damages for the decedent's hospital and medical expenses, loss of earnings as well as any disability and impairment, loss of enjoyment, and pain and suffering which the decedent sustained between this accident and his/her death. Under the law, he/she is entitled to recover the damages which the decedent sustained during this period of time.

[Adapt Model Charge on damages in Chapter 8 wherever applicable as to measure of damages.]

Cases:

See N.J.S.A. 2A:15-3; Dosen v. Trenton, & c., Traction Corp., 101 N.J.L. 393 (E. & A. 1925), historical summary of common law rule, also damages recoverable; see also, Kotkin v. Caprio, 65 N.J. Super. 453, 458 (App. Div. 1961), certif. den. 34 N.J. 470 (1961); Ryan v. Public Service Ry. Co., 103 N.J.L. 145, 147 (E. & A. 1926); Prudential Insurance Co. v. Laval, 131 N.J. Eq. 23 (Ch. 1942).