

Suit may not be brought under this article or under art. 75, sec. 29, or art. 93, sec. 106, by husband of a woman who was killed by a man, since deceased, against personal representative of latter. "*Actio personalis moritur cum persona.*" Meaning of "injuries to the person." *Démczuk v. Jenifer*, 138 Md. 491. And see *White v. Safe Dep. & Tr. Co.*, 140 Md. 599.

Action by husband for death of his wife abates on death of the husband or of defendant. There is no contractual relation between state and defendant. *Harvey v. B. & O. R. R. Co.*, 70 Md. 324.

For a variance between the proof, and declaration and particular, see *B. & O. R. R. Co. v. State*, use *Woodward*, 41 Md. 297.

Both deceased and equitable plaintiff must have been free from contributory negligence. *State*, use *Coughlan, v. B. & O. R. R. Co.*, 24 Md. 107; *B. & O. R. R. Co. v. State*, use *Fryer*, 30 Md. 52.

For cases under this section involving contributory negligence, see *State*, use *Price, v. Cumberland, etc.*, *R. R. Co.*, 87 Md. 186; *B. & O. R. R. Co. v. State*, use *Chambers*, 81 Md. 371; *State*, use *Hartlove, v. Fox*, 79 Md. 521; *B. & O. R. R. Co. v. State*, use *Strunz*, 79 Md. 335 (involving the imputing of negligence to the plaintiff); *Baltimore, etc., Turnpike Co. v. State*, use *Grimes*, 71 Md. 580; *B. & O. R. R. Co. v. State*, use *Mahone*, 63 Md. 148; *Pennsylvania R. R. Co. v. State*, use *McGirr*, 61 Md. 108; *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 449; *Philadelphia, etc., R. R. Co. v. State*, use *Bitzer*, 58 Md. 397; *State*, use *Bacon, v. Baltimore, etc., R. R. Co.*, 58 Md. 482; *State*, use *Hamelin, v. Malster*, 57 Md. 287; *Baltimore, etc., R. R. Co., v. State*, use *Stansbury*, 54 Md. 648; *Northern Central R. R. Co. v. State*, use *Burns*, 54 Md. 113; *Cumberland, etc., R. R. Co. v. State*, use *Moran*, 44 Md. 283; *B. & O. R. R. Co. v. State*, use *Woodward*, 41 Md. 299; *Cumberland, etc., R. R. Co. v. State*, use *Fazenbaker*, 37 Md. 156; *B. & O. R. R. Co. v. State*, use *Dougherty*, 36 Md. 366; *B. & O. R. R. Co. v. State*, use *Trainor*, 33 Md. 542; *Northern Central R. R. Co. v. State*, use *Geis*, 31 Md. 357; *B. & O. R. R. Co. v. State*, use *Fryer*, 30 Md. 47; *B. & O. R. R. Co. v. State*, use *Smith*, 29 Md. 460; *Northern Central R. R. Co. v. State*, use *Price*, 29 Md. 420; *B. & O. R. R. Co. v. State*, use *Miller*, 29 Md. 252; *State*, use *Coughlan, v. B. & O. R. R. Co.*, 24 Md. 84.

For cases to which this section was held to have no application because of a failure to prove that defendant had been negligent, see *Northern Central Ry. Co. v. Medairy*, 86 Md. 168; *State*, use *Brady, v. Consolidated Gas Co.*, 85 Md. 637; *B. & O. R. R. Co. v. State*, use *Good*, 75 Md. 526; *B. & O. R. R. Co. v. State*, use *Savington*, 71 Md. 590; *State*, use *Janney, v. Housekeeper*, 70 Md. 162; *B. & O. R. R. Co. v. State*, use *Allison*, 62 Md. 479; *State*, use *Barnard, v. Philadelphia, etc., R. R. Co.*, 60 Md. 555; *State*, use *Miller, v. B. & O. R. R. Co.*, 58 Md. 221; *State*, use *Hamelin, v. Malster*, 57 Md. 287; *Northern Central Ry. Co. v. State*, use *Burns*, 54 Md. 113; *State*, use *Foy, v. Philadelphia, etc., R. R. Co.*, 47 Md. 76.

Cited but not construed in *State*, use *Black, v. B. & O. R. R. Co.*, 36 Fed. 655.

For the statute regulating the survival of causes of action to personal representatives, see art. 93, sec. 106.

As to precautions required of railroad companies, see art. 23, secs. 215, 240, 251, 260 and 262.

As to the investigation of accidents by the public service commission, see art. 23, sec. 372.

See notes to sec. 2.

An. Code, sec. 2. 1904, sec. 2. 1888, sec. 2. 1852, ch. 299, sec. 2.

2. Every such action shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused and shall be brought by and in the name of the State of Maryland for the use of the person entitled to damages; and in every such action the jury may give such damages as they may think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided 'amongst the above-mentioned parties, in such shares as the jury by their verdict shall find and direct; provided, that not more than one action shall lie for and in respect of the same subject-matter of complaint; and that every such