

action shall be commenced within twelve calendar months after the death of the deceased person.

Damages.

The equitable plaintiffs are to be compensated for their *pecuniary* loss only. *Tucker v. State*, use *Johnson*, 89 Md. 471; *Baltimore, etc., Turnpike v. State*, use *Grimes*, 71 Md. 582; *Agricultural, etc., Assn. v. State*, use *Carty*, 71 Md. 100; *B. & O. R. R. Co. v. State*, use *Mahone*, 63 Md. 135; *State*, use *Coughlan, v. B. & O. R. R. Co.*, 24 Md. 105; *B. & O. R. R. Co. v. State*, use *Kelly*, 24 Md. 281.

The damages recoverable under this section, distinguished from those recoverable in a suit by personal representative of deceased, under art. 93, sec. 106. *Stewart v. United, etc., Co.*, 104 Md. 339. See also *State*, use *Allen, v. Pittsburg, etc., R. R. Co.*, 45 Md. 47; *W. B. & A. R. R. Co. v. State*, 136 Md. 120.

Punitive damages cannot be recovered under this article. When plaintiff will not be restricted to nominal damages. *B. & O. R. R. Co. v. State*, use *Kelly*, 24 Md. 280.

Fact that a husband has been separated for 12 years preceding his death, from his family, and has contributed nothing to their support does not limit plaintiffs to nominal damages. The right of support continues until death of husband. Admissibility of evidence. *B. & O. R. R. Co. v. State*, use *Chambers*, 81 Md. 388.

The failure of the jury to divide damages among those entitled, as provided by this section, is not ground for reversal at instance of defendant, in the absence of prejudice. *B. & O. R. R. Co. v. Reuter*, 114 Md. 698, distinguished. *Passapae v. Oehring*, 141 Md. 61.

As to nominal damages, see also *B. & O. R. R. Co. v. State*, use *Fryer*, 30 Md. 54; *B. & O. R. R. Co. v. State*, use *Chambers*, 81 Md. 388.

The court of appeals cannot deal with the matter of excessive damages, or the apportionment thereof. The only remedy for excessive damages, is with lower court on motion for new trial. *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 466.

In suit of a parent, where child dies before attaining its majority, no damages can be assessed for pecuniary benefits after period of such majority, although the child has been emancipated and continues to contribute to its parents' support thereafter, *contra*, if child dies after attaining its majority, and since that time rendered services to its parent. *Pikesville, etc., R. Co. v. State*, use *Russell*, 88 Md. 573; *Agricultural, etc., Assn. v. State*, use *Carty*, 71 Md. 99; *State*, use *Coughlan, v. B. & O. R. R. Co.*, 24 Md. 107.

For measure of damages in suit of parent for death of his or her minor child, see *Agricultural, etc., Assn. v. State*, use *Carty*, 71 Md. 99; *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 467; *Maryland v. Miller*, 180 Fed. 796.

For measure of damages in a suit by widow and children of deceased, see *Consol. Gas Co. v. Smith*, 109 Md. 205; *Baltimore, etc., Turnpike v. State*, use *Grimes*, 71 Md. 582; *Philadelphia, etc., R. R. Co. v. State*, use *Bitzer*, 58 Md. 399; *B. & O. R. R. Co. v. State*, use *Woodward*, 41 Md. 300; *B. & O. R. R. Co. v. State*, use *Kelly*, 24 Md. 279; *B. & O. R. R. Co. v. State*, use *Trainor*, 33 Md. 554. And see *Maryland v. Miller*, 180 Fed. 796.

Limitations.

Since the right of recovery for negligence causing death is altogether dependent upon statute, failure to sue within time limited by this section operates as a complete bar, notwithstanding art. 57, sec. 5, and although defendant was not suable in Maryland during the year. *Swanson v. Atlantic, etc., Co.*, 156 Fed. 977.

The general rule is that where limitations is not a bar before suit brought, an amendment of declaration *when cause of action remains the same* will not warrant filing of plea of limitations, although period has then expired, and this is true though the original declaration is bad on demurrer; *contra*, when amendment changes cause of action. Limitations held not to be a bar. *State*, use *Zier, v. Chesapeake Ry. Co.*, 98 Md. 37. See also *Western Union Tel. Co. v. State*, use *Nelson*, 82 Md. 306. *Cf. Hamilton v. Thirston*, 94 Md. 256.

Generally.

Proof of a reasonable expectation of pecuniary benefit or advantage from a continuance of life of deceased is sufficient to support an action under sec. 1. The right of action is not conditioned upon a legal claim on the deceased for support, and hence may include adult children and a married daughter for whom the mother performed services. *B. & O. R. R. Co. v. State*, use *Hauer*, 60 Md. 467; *B. & O. R. R. Co.*