

ARTICLE 67.

NEGLIGENCE CAUSING DEATH.

1. Liability notwithstanding death.

An. Code, 1924, sec. 1. 1912, sec. 1. 1904, sec. 1. 1888, sec. 1. 1852, ch. 299, sec. 1. 1929, ch. 570, sec. 1 (p. 1377).

1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued, or the executor or administrator of the said person who would have been liable in case of the death of the said person who would have been liable, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony; provided, however, that any such action against the executor or administrator of the said person who would have been liable shall be commenced within six calendar months after the death of the said person who would have been liable.

In action for death as result of fall over declivity at end of street, held there was evidence of negligence on part of city in not providing barrier or warnings of danger; passenger in automobile—contributory negligence of driver. *Agent. Variance. Evidence. Baltimore v. State*, 146 Md. 443.

In action for death of child struck by street car, held evidence of speed of car, lack of signal and vigilance was sufficient to go to jury; contributory negligence of child. *Last Clear Chance. State v. W., B. & A. R. Co.*, 149 Md. 445.

Where child died as result of defect in article purchased by parents, seller not being manufacturer of article, parents cannot sue under this section, since child, had it been injured, could not have sued: no privity of contract. Duty owed plaintiff. Vendor of article manufactured by another. *State v. Consol. Gas, etc., Co.*, 146 Md. 391.

This section referred to in construing art. 101, sec. 58—see notes thereto. *State v. Francis*, 151 Md. 150.

Art. 67 referred to in construing art. 101, sec. 58—see notes thereto. *Stark v. Gripp*, 150 Md. 658.

Art. 67 cited but not construed in *Lowe v. Lowe*, 150 Md. 603; *Barrett v. Indemnity Ins. Co.*, 152 Md. 258 (see notes to art. 101, sec. 58).

As to when mother may institute suit for tort against child, see art. 93, sec. 153A.

Statutes of Texas so unlike Maryland statutes in regard to actions for wrongful death, that Maryland courts are not justified in enforcing cause of action which insurance company might have under Texas statutes. *London, etc., Co. v. Steamship Co.*, 161 Md. 145.

Cited but not construed in *State v. Hecht Co.*, 165 Md. 417; *State v. Katcef*, 159 Md. 273.

See notes to sec. 2.