

ner as if a separate action had been pending or a separate judgment been rendered against such defendant.

See secs. 4 and 5.

An. Code, 1924, sec. 12. 1912, sec. 12. 1904, sec. 12. 1888, sec. 12. 1888, ch. 482.

12. In suits brought against alleged joint debtors in actions *ex contractu* it shall not be necessary for the plaintiff to prove their joint liability as alleged in order to maintain his action; but he shall be entitled to recover as in actions *ex delicto* against such one or more of the defendants as shall be shown by the evidence to be indebted to him; and judgment shall be entered in his favor against such one or more of said defendants as fully as if the defendant or defendants against whom he shall fail to establish his claim had not been joined in the suit.

When plaintiff's claim is established against only one of the two or more joint defendants, the verdict and judgment should be for plaintiff as against the one defendant and for the other defendants. *Horner v. Plumley*, 97 Md. 281. See also *Boyd v. Wolff*, 88 Md. 342.

Prior to adoption of this section in a suit against husband and wife under act of 1872, ch. 270, although wife maintained her defense, judgment might be entered against husband. *Wilmer v. Gaither*, 68 Md. 349.

This section applied. *Meyer v. Frenkil*, 113 Md. 46; *Westheimer v. Craig*, 76 Md. 407.

In action against two defendants, recovery may be against one. See art. 5, sec. 26. *Canton Co. v. Seal*, 144 Md. 181.

The fact that evidence failed to show a joint liability in both defendants does not prevent the plaintiff from recovering severally against one shown to be liable. *Houston v. Monumental Radio*, 158 Md. 308.

Cited in *Thompson v. Sun Cab Co.*, 170 Md. 303.

1927, ch. 539.

13. Where a judgment has been entered against two or more joint defendants in an action *ex delicto*, said defendants shall be subject to contribution between them. The judgment debtor or debtors paying such joint judgment shall be entitled to receive from the judgment creditor or creditors, in addition to any acquittance papers which such parties may mutually agree upon between themselves, an order to enter the plaintiff's judgment to the use of the defendant or defendants so paying the same, setting forth the date of such payment, the amounts so paid in satisfaction, and the name or names of the judgment debtor or debtors so paying the same, and upon the filing of such order of entry to use in the case in which said judgment was obtained, said judgment shall be entered on the docket to the use of the judgment debtor or debtors who shall have paid the same, against the judgment debtor or debtors who have not contributed thereto, to the extent of the *pro rata* share or shares of said non-contributing defendant or defendants in said judgment debt, and to such extent said entry shall constitute a lien against the property of such non-contributing defendant or defendants, upon which the defendant or defendants who shall have paid said judgment may issue execution or attachment as the case may be.

The fact that defendant in automobile collision case might have right of contribution did not entitle to have insurer of one of other defendants made a third-party defendant in case in absence of any relationship between first defendant and insurer. *Tullgren v. Jasper*, 27 F. Supp. 413.

This section construed in connection with art. 5, sec. 26. See notes thereto. *Cumberland, etc., Transit Co. v. Metz*, 153 Md. 456.

Where person injured in collision between taxicab in which she was riding and a truck, receives satisfaction from one tort-feasor, the taxicab, and releases it from liability, she cannot subsequently recover from owner of truck on account of same injury. *Lanasa v. Begg*, 159 Md. 311.

See art. 75, sec. 94, and art. 26, sec. 15.

Cited in *Tullgren v. Jasper et al.*, (Judge Chesnut, U. S. Dist. Ct. of Md.), *Daily Record*, May 10, 1939.