

ARTICLE 67.

NEGLIGENCE CAUSING DEATH.¹

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| <ol style="list-style-type: none"> 1. Liability notwithstanding death. 2. Action where wrongful act, etc., occurred outside of state. 3. Action to recover. | } | <ol style="list-style-type: none"> 4. Equitable plaintiff to deliver to defendant full particulars. 5. Word "person" to include corporation; responsibility of corporations for acts of servants. |
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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.

Maintenance of suit in other states and in federal courts; statutes of other states.

Where alleged wrongful act and death of decedent occurred in Virginia, suit for death could be maintained in Md., if at all, only on Virginia statute and not on Md. statute. *Rose v. Phillips Pkg. Co.*, 21 F. Supp. 485.

An action for negligence causing death, which happened in this state, may be maintained in another state in which common law obstacle to such action has been removed, provided the statute of this state is not in substance inconsistent with statute or public policy of state in which such action is brought. Such action may be brought in District of Columbia and in federal courts sitting in New York state, where cause of action arose in Maryland. *Stewart v. B. & O. R. R. Co.*, 168 U. S. 443; *Hollenbach v. Elmore, etc., Contracting Co.*, 174 Fed. 845.

The right of action given by this section is enforceable in federal courts of admiralty sitting in Maryland for a wrongful death in consequence of a negligent obstruction in navigable waters of the state; right of jury trial not being indispensable to enforcement of such cause of action. *Maryland v. Miller*, 180 Fed. 796; *State, use Szczesek, v. Homburg Co.*, 190 Fed. 240.

The statutes of other states not similar to our own, though belonging to the same class of legislation (such as those of West Virginia), will not be allowed extra-territorial effect. *Dronenburg v. Harris*, 108 Md. 608; *Ash v. B. & O. R. R. Co.*, 72 Md. 147.

Particular cases.

An action lies under this section against a fraudulent vendor who sells property known to be imminently dangerous and likely to cause injury to human beings, where vendee is not aware of danger. Vendor's liability extends to persons taking charge of property for vendee. Sufficiency of declaration. *State, use Hartlove, v. Fox*, 79 Md. 527.

For a suit against a physician for causing the death of a patient by an alleged unauthorized and unskillful operation, see *State, use Janney, v. Housekeeper*, 70 Md. 168.

¹ The annotations to this article are mainly confined to cases dealing specifically with the statute law. For cases involving the general principles of negligence, contributory negligence, assumption of risk, and the like, see appropriate titles in the Md. Digest.