

Everything You Need to Know About a Wrongful Death Lawsuit, Part 1

Within the scope of a wrongful death lawsuit lies a nuanced approach to collecting damages. While a family can never put a dollar amount on the loss of a loved one, and shouldn't have to, there are still financial burdens that must be dealt with after death. For this reason, it's important to obtain board certified legal counsel to help navigate both the judicial and financial aspects of a wrongful death lawsuit.

Final expenses add up, cause stress

When a loved one dies as a result of the negligence of another, families are often times left with final expenses: medical, funeral, and lost income. This steep financial injury can put a strain on an already grieving family.

It's important that your attorney has experience in wrongful death and that they are familiar with the differences in the laws, as opposed to the laws that apply to being injured by another. Determining damages in a wrongful death lawsuit begins with understanding "pecuniary loss" or how injured financially the surviving family members are as a result of the wrongful death. Courts have a system for determining the level of financial injury that includes:

- Loss of support (wages, child care, child support)
- Loss of prospective inheritance
- Medical, funeral expenses

No dollar amount on human life, but courts remain fair and just

The law stipulates that the damages obtained in the event of a wrongful death lawsuit will be just compensation for the financial injury that occurred due to the victim's passing. Awarded damages include interest from the date of death to account for the financial losses suffered during the legal process.

The actual process of determining pecuniary loss has several steps that must be allowed to ensure that the outcome is fair and just. First, relevant details are collected about the decedent:

- Age
- Health conditions prior to death
- Earning capacity over a lifetime
- Life expectancy had the wrongful death not occurred
- Intelligence level and education

What happens to the dependents?

The next thing that is reviewed thoroughly are the circumstances the surviving family are in after the death. The decedent's surviving family are known as "distributees" in a court of law. Determining the circumstances is not a straightforward process and without an experienced attorney, can become complex and time consuming.

What the court tends to focus on when awarding the family members damages is the circumstances surrounding the deceased at the time of their death. As an example, when a working parent passes away due to the negligence of another, their dependents are considered in the process of obtaining damages. This usually includes:

- Loss of income (to provide for the child; child support in the event of a divorce, daycare, schooling, etc.)

- Loss of parental guidance (who is fit to care for the dependent(s) after their parent has passed away in a manner that is, according to the court of law, equal to the care they received from their parent?)

While families are understandably emotional, experienced attorneys remain unbiased

Loss of parental guidance is often difficult to determine and can be extremely emotional for the family members involved. When a parent with children dies, it is impossible to determine who might be able to care for the children in a way that's comparable to the love and care provided by a mother or father.

This is the same principle that applies when determining damages. No dollar amount can ever replace the loss of a loved one, and it becomes difficult to consider what would be "reasonable" after a wrongful death.

Your attorney should be there for you, your rights

Board certified attorneys have experience in this emotionally delicate area and can provide the unbiased advice necessary to get the family through the arduous legal process during a time when they're finding it difficult to see clearly, and especially during a time when they're grieving.

Pecuniary vs. punitive: what's up next

In part two of our look into what happens after a wrongful death and the legal process that follows, we'll investigate expert testimony, how it's used to determine pecuniary loss and go in-depth about the difference between pecuniary loss and punitive damages from a personal injury standpoint.

Contact us to schedule a complimentary consultation. There's no obligation. Take the first step and call today: (877). 529-0080



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