

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fourth
Legislature

1909

Chapter 258.

An Act relating to the employment of Labor.

Be it enacted by the People of the State of Maine, as follows :

Employer's liability, when.

Section 1. If personal injury is caused to an employee, who, at the time of the injury, is in the exercise of due care, by reason of:

First, defects in the condition of ways, works, etc.

First, a defect in the condition of the ways, works or machinery connected with or used in the business of the employer, which arose from, or had not been discovered or remedied in consequence of, the negligence of the employer or of a person in his service who had been entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition ; or,

Second, negligence of person in service of employer.

Second, that the negligence of a person in the service of the employer who was entrusted with and was exercising superintendence and whose sole or principal duty was that of superintendence, or in the absence of such superintendent, of a person acting as superintendent with the authority or consent of such employer.

Third, negligence of person in service of employers in charge of signal, switch, train, etc. —rights to compensation and of action against employer.

Third, the negligence of a person in the service of the employer who was in charge or control of a signal, switch, locomotive engine or train upon a railroad ;

The employee or his legal representatives, shall subject to the provisions of the eight following sections, have the same rights to compensation and of action against the employer as if he had not been an employee, nor in the service, nor engaged in the work, of the employer.

Car to be considered as part of ways, works, etc., within meaning of clause one.

A car which is in use by, or which is in possession of, a railroad corporation shall be considered as a part of the ways, works or machinery of the corporation which uses or has it in possession, within the meaning of clause one of this section, whether it is owned by such corporation or by some other company or person. One or more cars which are in motion, whether attached to an engine or not, shall constitute a train within the meaning of clause three of this section, and whoever, as a part of his duty for the time being, physically controls or directs the movements of a signal, switch, locomotive engine or train shall be deemed to be a person in charge or control of a signal, switch, locomotive engine or train within the meaning of said clause.

—one or more cars shall constitute a train within meaning of clause three.

May recover damages for death in addition for those for injury.

Section 2. If the injury described in the preceding section results in the death of the employee, and such death is not instantaneous or is preceded by conscious suffering, and if there is any person who would have been entitled to bring an action

under the provisions of the following section, the legal representatives of said employee may, in the action brought under the provisions of the preceding section, recover damages for the death in addition to those for the injury.

Section 3. If, as the result of the negligence of an employer himself, or of a person for whose negligence an employer is liable under the provisions of section one, an employee is instantly killed, or dies without conscious suffering, his widow or, if he leaves no widow, his next of kin, who, at the time of his death, were dependent upon his wages for support, shall have a right of action for damages against the employer.

Action for damages against employer for negligence.

Section 4. If, under the provisions of either of the two preceding sections, damages are awarded for the death, they shall be assessed with reference to the degree of culpability of the employer or of the person for whose negligence the employer is liable.

Damages for death, how assessed.

The amount of damages which may be awarded in an action under the provisions of section one for a personal injury to an employee, in which no damages for his death are awarded under the provisions of section two, shall not exceed four thousand dollars.

—damages for personal injury not to exceed \$4,000.

The amount of damages which may be awarded in such action, if damages for his death are awarded under the provisions of section two, shall not exceed five thousand dollars for both the injury and the death, and shall be apportioned by the jury between the legal representatives of the employee and the persons who would have been entitled, under the provisions of section three, to bring an action for his death if it had been instantaneous or without conscious suffering.

—damages awarded under section two not to exceed \$5,000

The amount of damages which may be awarded in an action brought under the provisions of section three shall not be less than five hundred nor more than five thousand dollars.

—damages that may be awarded under section three.

Section 5. No action for the recovery of damages for injury or death under the provisions of sections one to four, inclusive shall be maintained unless notice of the time, place and cause of the injury is given to the employer within sixty days and the action is commenced within one year after the accident which causes the injury or death. Such notice shall be in writing, signed by the person injured, or by a person in his behalf; but if from physical or mental incapacity it is impossible for the person injured to give the notice within the time provided in this section, he may give it within ten days after such incapacity has been removed, and if he dies without having given the notice and without having been for ten days at any time after his injury of sufficient capacity to give it, his executor or administrator may

Time within which action for recovery of damages may begin

—notice shall be in writing, and signed by person injured.

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—executor or administrator may give notice.

give such notice within sixty days after his appointment. A notice given under the provisions of this section shall not be held invalid or insufficient solely by reason of an inaccuracy in stating the time, place or cause of the injury, if it is shown that there was no intention to mislead, and that the employer was not in fact misled thereby.

—when new notice may be given.

If a notice given under this section is claimed by the employer to be insufficient for any reason he shall so notify in writing the person giving it within ten days, stating the insufficiency claimed to exist, and thereupon the person whose duty is to give the notice may, within thirty days, give a new notice with the same effect as if originally given.

Liability of employer not barred by entering into contracts with independent contractor.

Section 6. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or sub-contract shall not bar the liability of the employer for injuries to the employees of such contractor or sub-contractor, caused by any defect in the condition of the ways, works, machinery or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer or of some person entrusted by him with the duty of seeing that they were in proper condition.

Employee not entitled to right of action for damages, if he had knowledge of defect or negligence.

Section 7. An employee or his legal representatives shall not be entitled under the provisions of sections one to four, inclusive, to any right of action for damages against his employer if such employee knew of the defect or negligence which caused the injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer who was entrusted with general superintendence.

Not to apply to certain employees.

Section 8. The provisions of the seven preceding sections shall not apply to injuries caused to domestic servants or farm laborers by fellow employees, or to those engaged in cutting, hauling or driving logs.

Not to abridge any common law rights or remedies.

Section 9. Nothing in this act shall be construed to abridge any common law rights or remedies which the employee may have against his employer, but a judgment recovered under the provisions of this act, or a settlement of any action commenced or claim made for death or injury, under the provisions of this act, shall be a bar to any claim made or action begun to recover for the same injury or the same death, under the provisions of the common law or under the provisions of any other statute.