

By Mr. DiMasi of Boston, petition of Salvatore F. DiMasi relative to wrongful death actions. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Five.

AN ACT RELATIVE TO WRONGFUL DEATH ACTIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 2 of chapter 229 of the General Laws, as
2 appearing in the 1988 Official Edition, is hereby amended by
3 striking out the first sentence and inserting in place thereof the
4 following sentence:— A person who (1) by his negligence causes
5 the death of a person, or (2) by willful, wanton or reckless act
6 causes the death of a person under such circumstances that the
7 deceased could have recovered damages for personal injuries if
8 his death had not resulted, or (3) operates a common carrier of
9 passengers and by his negligence causes the death of a passenger,
10 or (4) operates a common carrier of passengers and by his willful,
11 wanton or reckless act causes the death of a passenger under such
12 circumstances that the deceased could have recovered damages
13 for personal injuries if his death had not resulted, or (5) is respon-
14 sible for a breach of warranty arising under Article 2 of chapter
15 one hundred and sixty which results in injury to a person that
16 causes death, shall be liable in damages in the amount of: (1) the
17 fair monetary value of the decedent to the persons entitled to
18 receive the damages recovered, as provided in section one,
19 including but not limited to compensation for the loss of the rea-
20 sonably expected net income, services, protection, care, assis-
21 tance, society, companionship, comfort guidance, counsel, and
22 advice of the decedent to the persons entitled to the damages
23 recovered; (2) the reasonable funeral and burial expenses of the
24 decedent; (3) fair compensation for the grief, anguish and

25 bereavement and other consequential damages of the persons enti-
26 tled to recover hereunder who sustain physical harm as a result of
27 severe mental distress caused by the decedent's death; (4) punitive
28 damages in an amount of not less than five thousand dollars in
29 such case as the decedent's death was caused by the malicious,
30 willful, wanton or reckless conduct of the defendant or by the
31 gross negligence of the defendant; except that (1) the liability of
32 an employer to a person in his employment shall not be governed
33 by this section, (2) a person operating a railroad shall not be liable
34 for the negligence in causing the death of a person while walking
35 or being upon such railroad contrary to law or to the reasonable
36 rules and regulations of the carrier and (3) a person operating a
37 street railway or electric railroad shall not be liable for negligence
38 for causing the death of a person while walking or being upon that
39 part of the street railway or electric railroad not within the limits
40 of a highway.