

No. 471, S.]

[Published July 13, 1949.]

CHAPTER 439.

AN ACT to repeal and recreate 331.04 of the statutes, relating to actions for damages for wrongful death.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

331.04 of the statutes is repealed and recreated to read:

331.04 PLAINTIFF IN WRONGFUL DEATH ACTION; DAMAGES LIMITED.

(1) An action for wrongful death may be brought by the personal representative of the deceased person or by the person to whom the amount to be recovered belongs.

(2) The amount recovered shall belong and be paid to the spouse of the deceased; if no spouse survives, to the deceased's lineal heirs as determined by section 237.01; if no lineal heirs survive, to the deceased's brothers and sisters. If any such relative dies before judgment in the action, the relative next in order shall be entitled to recover for the wrongful death. A surviving nonresident alien wife and minor children shall be entitled to the benefits of this section.

(3) If separate actions are brought for the same wrongful death, they shall be consolidated on motion of any party.

(4) Judgment for damages for pecuniary injury from wrongful death shall not exceed \$12,500. Additional damages not to exceed \$2,500 for loss of society and companionship may be awarded to spouse or parents of deceased.

(5) If the personal representative brings the action he may also recover funeral expenses; if a relative brings the action he may recover funeral expenses on behalf of himself or of any relative specified in this section who has paid or assumed liability for such expenses.

(6) Where the wrongful death of a person creates a cause of action in favor of the decedent's estate and also a cause of action in favor of a spouse or relatives as provided in this section, such spouse or relatives may waive and satisfy the estate's cause of action

in connection with or as part of a settlement and discharge of the cause of action of the spouse or relatives.

Approved July 7, 1949.
