

COMPARISON OF MARITIME DEATH REMEDIES

Situs of Casualty	Status of Decedent	Parties Liable	Beneficiaries Entitled to Recover	Elements of Damages
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DEATH ON THE HIGH SEAS ACT (46 USC § 30301 et seq.)

High seas, beyond the territorial waters of the states (beyond 3 nautical miles)	Any person	Any person at fault including vessels in rem (but no cause of action against employers of "seamen" for negligence)	Spouse, parent, child or dependent relative. Existence of one class does not cut off recovery by another class	Wrongful death claims. Pecuniary losses of each beneficiary only. Recoverable losses include: funeral expenses incurred by beneficiary; loss of financial support; value of lost services; value of probable inheritance; for surviving children, loss of nurture, care guidance, support and training. No recovery for loss of society, loss or consortium, pain and suffering or for loss to the estate of future accumulation of estate. Interest on past damages allowed.
same	Any person	Same	Estate of decedent	Survival remedy. Limited to causes of action of person injured as a result of event on the high seas where injured person dies as a result of injuries during pendency of action in federal court in admiralty

JONES ACT (46 USC § 30104, incorporating Federal Employers' Liability Act, 45 USC §§ 51, 59)

Any navigable waters	"Seamen" only	Decedent's employer only (no in rem liability of vessel)	(1) Spouse and children, if none, then dependent relatives	Wrongful death claims: Pecuniary losses, same as DOHSA. Hopper v. Waterman held there is no recovery for loss of probable inheritance for death of seaman.
			(2) Estate of decedent	Survival claims: Predeath earned and unearned wages, maintenance, medical expenses, and pre-death conscious pain and suffering.

**GENERAL MARITIME LAW
1. "Wrongful Death" Claims**

Territorial waters of a state (DOHSA preempts application of general maritime law wrongful death remedies for deaths on the high seas)	Any person (but Jones Act preempts wrongful death remedies for "seamen" for deaths due to the negligence of their employers)	Any person at fault (but not employers of "seamen" for negligence)	Spouse, children, parents and dependent relatives. Existence of one class does not cut off recovery by others.	Pecuniary losses of the permitted beneficiaries (as per DOHSA) plus, under divided authority, for dependent beneficiaries of decedents who are not seamen, values of love, affection, care, attention, companionship, consortium. Majority rule is there is no recovery for loss of society or loss or consortium for deaths of true seamen. Some lower courts allow non-pecuniary damages other than in the seaman-employer context.
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2. Survival Claims

Navigable waters within territory of a state (DOHSA preempts any survival remedy (except commercial airline casualties) for deaths on high seas)	Seamen: Jones Act preempts survival causes of action for negligence of seamen's employers. Minority rule allow survival remedy in non-employer third-party claims Non-seamen:	Any person at fault (but not employers of seamen for negligence)	Estate of decedent Some jurisdictions require existence of a dependent relative, others do not. See In re American River Transp. Co., 2007 AMC 1593 (5 th Cir. 2007)	Six circuits (1, 2, 3, 5, 8 & 9) recognize GML survival remedy. Predeath wages, medical expenses, and pain and suffering. Some circuits hold punitive damages and other non-economic damages are not recoverable. Other circuits hold nonpecuniary damages are recoverable other than in the seaman-employer context. Air Crash Off Point Mugu held GML survival action includes the right of a victim's estate to recover pre-death anxiety and pain and suffering, loss of future wages, and punitive damages. In re Air Crash at Bell Harbor applied the GML survival action "and its compensatory damages which include loss of society and punitive damages."
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STATE WRONGFUL DEATH AND SURVIVAL REMEDIES

Territorial waters of a State or Commonwealth. 11 th Circuit holds casualty must not involve navigation of a commercial vessel	"Nonseafarer" only – not seaman or LHWCA "employee"	Any person at fault	Per state law	Per state law
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