

Fatal Work Injuries



Provided by:
Rich Harris, Attorney at Law
CalWrongfulDeathLawyer.com

Questions? Call (888) 660-4529



Richard C. Harris
Wrongful Death Lawyer

Fatal Work Injuries

Posted: June 29, 2016

The United States averages nearly 4,700 work related fatalities each and every year since 2009. In California, there were 344 fatal work injuries for 2014.

Family members of the deceased worker often receive little to no information from the employer for fear of litigation and workers' compensation claims filings. The information they do receive is often unverified and usually protective of the employer.

Often times the co-workers of the deceased worker are forced into silence by the employer on threats or concerns that their job will be terminated should they testify adversely to the employer.

The deceased worker's family members deserve answers to their questions. Acquiring a wrongful death lawyer is often times the only way the family will learn the truth of what happened.

This brief article is designed to shed light on workplace fatalities and provide family members of the deceased worker a summary of their rights under the law.

Types of Workplace Fatalities

About 24% of all workplace fatalities occur on state highways and local roadways. Airplane, train, boating, pedestrian, and other non-roadway transportation incidents account for 17% of all work related deaths. 41% of all work related deaths occur as transportation incidents.

Falls, slips and trips account for 17% of all work related fatalities. Homicide by co-workers, robbers, or by animals accounts for 16% of the fatalities.

Equipment collisions and drops account for 15% of the deaths,

Exposures to toxic chemicals make up 8% and fires and explosions are 3%.

Males make up 92% of all fatalities and women are just 8%. Workplace fatalities are disproportionately male.

Course and Scope

One of the issues in workplace fatality cases is whether the deceased worker was working at the time of his or her death. This is sometimes referred to as whether the worker was in the "course and scope of employment"

Generally, if any employee was working at the time of the death the employer will be obligated to pay benefits to the deceased worker's family members under the workers' compensation system.

Significant disputes can arise if the employee was in the process of traveling to or from a work location at the time of death. Employers routinely argue that the employee was "traveling to" or "coming from" work and was not in the course and scope of employment at the time of death

There are exceptions to the traveling to and coming from rules including a concept at law known as the special errand doctrine. This rule says that if the employee was traveling on a special errand for the employer, then the employer must pay death benefits to the family members. There have been many cases allowing compensation.

All travel related work fatalities should be evaluated by an experienced wrongful death lawyer so that the family can decide whether or not a workers' compensation death benefit claim should be pursued.

Workers' Compensation

Under California law, an employer is required to provide death benefits to a deceased worker's eligible dependents.

The workers' compensation law only compensates dependents of the injured worker. Dependents are categorized as partial dependents or total dependents. A child of the deceased worker and spouse would be considered total dependents. If the same decedent provided financial aide or support to his elderly mother (to pay for nurses or assisted living etc.), the decedent's mother would be a partial dependent. Each dependent has a claim for death benefits.

The compensation available ranges in the amount of \$250,000-\$320,000. Death benefits are paid over time at the total temporary disability rate, which is not less than \$224 per week. The system of payments is relatively complicated and you should contact a wrongful death lawyer to learn the benefits that you may be entitled to.

Reasonable burial expenses of up to \$10,000 will be paid to the family.

Claims must generally be made within one year of death. As with many rules there are exceptions. For instance, when a person is injured at work and then dies a year or two later because of the work injury the law allows the dependents to make a death benefits claim. However, no death claim can be made after 240 weeks after the initial date of injury. This is the equivalent of 4.6 years after the injury.

Family members of the recently deceased should really look into the cause of death of their loved. If the cause of death was related to the

deceased person's injuries at work from years ago, then there could still be a viable claim for death benefits.

Third Party Liability

Often times family members of a deceased worker believe that they do not have a viable claim against anybody other than the employer. This is generally not the case. A claim against persons other than the employer are often referred to as "third party liability claims". Third party liability claims are in addition to the workers' compensation claims you may have.

If your loved one was killed in an accident at work, an investigation must be conducted to determine the specific cause of death. Was the death caused by a defective vehicle, a defective machine, defective safety equipment, or another defective product? If so, you may have a valid claim for wrongful death against the manufacturers or distributors of the defective item.

These third party claims are often paid by liability insurance companies who insure the product manufacturers and distributors. Wrongful death lawyers investigate claims against product manufacturers and distributors to determine what insurer owes you for your loss.

If your loved one was in his or her employer's vehicle and another vehicle collided with your loved one, then the auto insurer for the at fault party may owe you a claim for wrongful death damages.

Was the death caused by the act of the employer's vendors, suppliers or customers? If a vendor or supplier's employee was careless or reckless then the vendor or supplier will likely be

liable for all harm caused by their employee's conduct. Likewise, if the employer's customer caused the death of your loved one then that customer will be obligated to pay you for your loss.

Claims against local, state or federal government agencies have special limited time windows to bring claims. Generally, claims against public agencies must be filed within six (6) months of death.

Claims against private parties (individuals, corporations, etc.) must be made within two years of death. There are certain tolling statutes that toll the two year window for minors, prisoners, and a few others. Claims against health care providers have different rules.

Your legal rights are controlled by these dates and deadlines and you should have an experienced wrongful death lawyer evaluate your case and to advise you the applicable dates for your case.

A wrongful death lawyer can investigate the facts related to your loved one's death and determine what third party should be held accountable under the law.

If a third party is found liable, they will be required to compensate you for your financial losses and for the loss of the love and companionship of your loved one. The law allows you to hold the wrongdoer accountable.

Social Security Benefits

Your loved one likely paid into Social Security and the law contemplates your financial need upon the death of your loved one.

In summary, a widow over the age of 60, or a widow of any age caring for

minors, and the decedent's minors under age 18 are generally allowed to make a claim for a monthly survivors benefit.

Also if the decedent supported his parents who are 62 or older, then the parents may also have a claim.

Special rights and payments are granted to disabled dependents of the decedent and special attention should be paid to any survivor of the decedent who is disabled.

A small death benefit of \$255 is generally paid to the surviving spouse or if there is no surviving spouse the decedent's child can receive this small benefit.

A good wrongful death lawyer assists his clients with acquiring all compensation due under the law. This includes guidance on making claims for survivor benefits under the Social Security laws.

Richard Harris is the principal attorney of Rich Harris, A Law Corporation. Mr. Harris practices wrongful death law in the State of California.

His practice is dedicated to helping individuals and families pursue their wrongful death claims against reckless motorists, greedy insurance companies, and careless government agencies.

Mr. Harris can be reached at (888) 660-4529 or by visiting www.CalWrongfulDeathLawyer.com