



PARLIMEN MALAYSIA



RANG UNDANG-UNDANG

Rang Undang-Undang Sivil (Pindaan), 1956

DR.22/1984

RANG UNDANG-UNDANG

bernama

Suatu Akta untuk meminda Akta Undang-Undang
Sivil 1956.

MAKA INILAH DIPERBUAT UNDANG-UNDANG oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Rakyat yang bersidang dalam Parlimen, dan dengan kuasa daripadanya, seperti berikut :

1. (1) Akta ini bolehlah dinamakan Akta Undang-Undang Sivil (Pindaan) 1984 dan hendaklah mula berkuatkuasa pada tarikh yang akan ditetapkan oleh Menteri melalui pemberitahuan dalam *Warta*.

Tajuk ringkas, mula berkuatkuasa dan pemakaian.

(2) Akta ini terpakai di seluruh Malaysia.

2. Seksyen 7 Akta Undang-Undang Sivil 1956, yang disebut "Akta ibu" dalam Akta ini, adalah dipinda—

Pindaan seksyen 7. Akta 67.

(a) dengan menggantikan subseksyen (3) dengan subseksyen baru (3), (3A), (3B), (3C), (3D) dan (3E) yang berikut :

"(3) The damages which the party who shall be liable under subsection (1) to pay to the party for whom and for whose benefit the action is brought shall, subject to this section, be such as well compensate the party for whom and for whose benefit the action is brought for any loss of support suffered together with any reasonable

expenses incurred as a result of the wrongful act, neglect or default of the party liable under subsection (1):

Provided that—

- (i) in assessing the damages there shall not be taken into account—
 - (a) any sum paid or payable on the death of the person deceased under any contract of assurance or insurance, whether made before or after the coming into force of this Act;
 - (b) any sum payable, as a result of the death, under any written law relating to employees' provident fund;
 - (c) any pension or gratuity, which has been or will or may be paid as a result of the death; or
 - (d) any sum which has been or will or may be paid under any written law relating to the payment of any benefit or compensation whatsoever, in respect of the death:
- (ii) damages may be awarded in respect of the funeral expenses of the person deceased if such expenses have been incurred by the party for whose benefit the action is brought:
- (iii) no damages shall be awarded to a parent on the ground only of his having been deprived of the services of a child; and no damages shall be awarded to a husband on the ground only of his having been deprived of the services or society of his wife; and

(iv) in assessing the loss of earnings in respect of any period after the death of a person where such earnings provide for or contribute to the damages under this section the Court shall:

(a) take into account that where the person deceased has attained the age of fifty five years at the time of his death, his loss of earnings for any period after his death shall not be taken into consideration; and in the case of any other person deceased, his loss of earnings for any period after his death shall be taken into consideration if it is proved or admitted that the person deceased was in good health but for the injury that caused his death and was receiving earnings by his own labour or other gainful activity prior to his death;

(b) take into account only the amount relating to the earnings as aforesaid and the Court shall not take into account any prospect of the earnings as aforesaid being increased at any period after the person's death;

(c) take into account any diminution of any such amount as aforesaid by such sum as is proved or admitted to be the living expenses of the person deceased at the time of his death;

(d) take into account that in the case of a person who was of the age of thirty years and below at the time of his death, the num-

ber of years' purchase shall be 16; and in the case of any other person who was of the age range extending between thirty one years and fifty four years at the time of his death, the number of years' purchase shall be calculated by using the figure 55, minus the age of the person at the time of death and dividing the remainder by the figure 2.

(3A) An action under this section may consist of or include a claim for damages for bereavement and, subject to subsection (3D), the sum to be awarded as damages under this subsection shall be ten thousand ringgit.

(3B) A claim for damages for bereavement shall only be for the benefit—

- (a) of the spouse of the person deceased; and
- (b) where the person deceased was a minor and never married, of his parents.

(3C) Where there is a claim for damages under paragraph (b) of subsection (3B) for the benefit of the parents of the person deceased, the sum awarded shall be divided equally between them subject to any deduction likely to be made in respect of all costs and expenses including cost not recovered from the defendant.

(3D) The Yang di-Pertuan Agong may from time to time by order published in the *Gazette* vary the sum specified in subsection (3A).

(3E) An order made under subsection (3D) shall be published in the *Gazette* and as soon as possible thereafter, shall be laid before the Dewan Rakyat; and if the Dewan Rakyat passes a resolution annulling the order, it

shall be void but without prejudice to the validity of anything previously done thereunder or to the making of a new order as from the date of notification in the *Gazette* of the passing of the resolution.”; dan

- (b) dengan memasukkan selepas sahaja perkataan “amount” dalam subseksyen (4) perkataan-perkataan “, other than the amount awarded under proviso (iii) to subsection (3) and the amount recovered under paragraph (b) of subsection (3B),”.

3. Seksyen 8 Akta ibu adalah dipinda dengan menambah selepas sahaja perkataan “damages” dalam perenggan (a) subseksyen (2) perkataan-perkataan “, any damages for bereavement made under subsection (3A) of section 7, any damages for loss of expectation of life and any damages for loss of earnings in respect of any period after that person’s death”.

Pindaan
seksyen 8.

4. Seksyen 12 Akta ibu adalah dipinda dengan memasukkan selepas sahaja perkataan-perkataan “under section 7” dalam subseksyen (4) perkataan-perkataan “or for the benefit of the husband of that person under proviso (iii) of subsection (3) of section 7 or of the spouse or parents under subsection (3B) of section 7”.

Pindaan
seksyen 12.

5. Seksyen 28A Akta ibu adalah dipinda—

Pindaan
seksyen 28A.

- (a) dengan menomborkan semula seksyen 28A sebagai subseksyen (1) seksyen 28A; dan

- (b) dengan menambah selepas sahaja subseksyen (1) subseksyen baru (2) yang berikut:

“(2) In assessing damages under this section—

- (a) no damage shall be recoverable in respect of any loss of expectation of life caused to the plaintiff by the injury;

- (b) if the plaintiff’s expectation of life has been reduced by the injury, the Court, in assessing damages in respect of pain and suffering caused by the injury, shall take into account any

suffering caused or likely to be caused by awareness that his expectation of life has been so reduced;

(c) in awarding damages for loss of future earnings the Court shall take into account:

(i) that in the case of a plaintiff who has attained the age of fifty five years or above at the time when he was injured, no damages for such loss shall be awarded; and in any other case, damages for such loss shall not be awarded unless it is proved or admitted that the plaintiff was in good health but for the injury and was receiving earnings by his own labour or other gainful activity before he was injured;

(ii) only the amount relating to his earnings as aforesaid at the time when he was injured and the Court shall not take into account any prospect of the earnings as aforesaid being increased at some time in the future;

(iii) any diminution of any such amount as aforesaid by such sum as is proved or admitted to be the living expenses of the plaintiff at the time when he was injured;

(d) in assessing damages for loss of future earnings the Court shall take into account that:

(i) in the case of a person who was of the age of thirty years or below at the time when he was injured, the number of years' purchase shall be 16; and

- (ii) in the case of any other person who was of the age range extending between thirty one years and fifty four years at the time when he was injured, the number of years' purchase shall be calculated by using the figure 55, minus the age of the person at the time when he was injured and dividing the remainder by the figure 2."

HURAIAN

Rang Undang-Undang ini bertujuan membuat pindaan-pindaan tertentu kepada Akta Undang-Undang Sipil 1956 memandangkan perbezaan yang begitu besar tentang award mahkamah berkenaan dengan tindakan mendapatkan ganti rugi kerana bencana diri termasuk bencana yang membawa maut.

2. *Fasal 2* Rang Undang-Undang meminda seksyen 7 Akta untuk membuat peruntukan mengenai kenyataan yang lebih pasti tentang maksud membuat tuntutan pertanggungan, penghapusan tuntutan kerana hilang khidmat, dan award mendapatkan ganti rugi kerana kedukacitaan yang ditetapkan sebanyak \$10,000 tetapi boleh diubah melalui perintah Yang di-Pertuan Agong. Fasal itu juga memperuntukkan mengenai cara mentaksirkan kehilangan pendapatan seseorang yang mati berkenaan dengan tempoh selepas kematiannya.

3. Pindaan kepada seksyen 8 Akta dalam *fasal 3* mengecualikan dari pemakaian seksyen itu ganti rugi kerana kedukacitaan di bawah tuntutan pergantungan, ganti rugi kerana kehilangan jangka hidup dan ganti rugi kerana hilang pendapatan berkenaan dengan mana-mana tempoh selepas kematian orang itu.

4. Pindaan-pindaan dalam *fasal 4* dan *5* adalah pindaan-pindaan yang berbangkit.

IMPLIKASI KEWANGAN

Rang Undang-Undang ini tidak akan melibatkan Kerajaan dalam apa-apa perbelanjaan wang tambahan. [PN. (U²) 1183.]