

IC 34-9-3

Chapter 3. Survival of Cause of Action After Death of Party

IC 34-9-3-0.2

Application of certain amendments to prior law

Sec. 0.2. The amendments made to IC 34-1-1-1 (before its repeal, now codified in this chapter) by P.L.94-1989 do not apply to causes of action that accrue before July 1, 1989.

As added by P.L.220-2011, SEC.546.

IC 34-9-3-1

Continuing action after death of party

Sec. 1. (a) If an individual who is entitled or liable in a cause of action dies, the cause of action survives and may be brought by or against the representative of the deceased party except actions for:

- (1) libel;
- (2) slander;
- (3) malicious prosecution;
- (4) false imprisonment;
- (5) invasion of privacy; and
- (6) personal injuries to the deceased party;

which survive only to the extent provided in this chapter.

(b) An action under this chapter may be brought, or the court, on motion, may allow the action to be continued by or against the legal representatives or successors in interest of the deceased. The action is considered a continued action and accrues to the representatives or successors at the time the action would have accrued to the deceased if the deceased had survived.

As added by P.L.1-1998, SEC.4.

IC 34-9-3-2

Notice served on legal representatives

Sec. 2. If an action is continued against the legal representatives or successors of a defendant, a notice shall be served on them as in the case of an original notice.

As added by P.L.1-1998, SEC.4.

IC 34-9-3-3

Actions before and after defendant's death

Sec. 3. (a) If an action commenced against the decedent before the decedent's death, the action is continued by substituting the decedent's personal representatives, as in other actions surviving the defendant's death.

(b) If the action is brought after the death of a defendant, then the action is prosecuted as are other claims against the decedent's estate.

As added by P.L.1-1998, SEC.4.

IC 34-9-3-4

Action by decedent's representative based on personal injuries not causing death

Sec. 4. (a) This section applies when a person:

- (1) receives personal injuries caused by the wrongful act or omission of another; and
- (2) subsequently dies from causes other than those personal injuries.

(b) The personal representative of the decedent who was injured may maintain an action against the wrongdoer to recover all damages resulting before the date of death from those injuries that the decedent would have been entitled to recover had the decedent lived. The damages:

- (1) inure to the exclusive benefit of the decedent's estate; and
- (2) are subject to IC 6-4.1.

As added by P.L.1-1998, SEC.4. Amended by P.L.143-2009, SEC.43.

IC 34-9-3-5

Personal injury claims; death of party pending appeal or before new trial after reversal

Sec. 5. (a) This section applies when:

- (1) a person obtains a judgment for personal injuries against a person, company, or corporation in a trial court;
- (2) the person, company, or corporation against whom or which the judgment was obtained appeals to the supreme court or the court of appeals; and
- (3) the judgment is reversed by the supreme court or the court of appeals, with a new trial granted to the appellant.

(b) If a person who obtains a judgment dies:

- (1) pending the appeal; or
- (2) before a new trial after the reversal;

the claim for personal injuries survives and may be prosecuted by the representative of the decedent, as other claims are prosecuted for and on behalf of decedents' estates.

As added by P.L.1-1998, SEC.4.