31.02 Measure of Damages--Wrongful Death--Minor Child Decedent--Collateral Next of Kin Surviving

If you decide for the plaintiff on the question of liability, you must then fix the amount of money which will reasonably and fairly compensate the [collateral next of kin, *e.g.*, brother] of the decedent for the pecuniary loss proved by the evidence to have resulted to [collateral next of kin] from the death of the decedent. "Pecuniary loss" may include loss of money, benefits, goods, services, and society as well as grief, sorrow and mental suffering.

In determining pecuniary loss, you may consider what the evidence shows concerning the following:

[1. What (money,) (benefits,) (goods,) (and) (services) the decedent customarily contributed in the past;]

[2. What (money,) (benefits,) (goods,) (and) (services) the decedent was likely to have contributed in the future;]

[3. Decedent's age;]

[4. Decedent's health;]

[5. Decedent's physical and mental characteristics;]

[6. Decedent's habits of (industry,) (sobriety,) (and) (thrift);]

[7. Decedent's occupational abilities;]

[8. The grief, sorrow, and mental suffering of [collateral next of kin];]

[9. The relationship between [collateral next of kin] and [decedent].]

Whether pecuniary loss has been proved by the evidence is for you to determine.

Instruction revised August 2026; Instruction and Notes on Use revised June 2021; Comment revised October 2007.

Notes on Use

Item 8 is a new addition to the instruction. Its inclusion is based on the 2007 amendment to the Wrongful Death Act, 740 ILCS 180/2. That amendment (P.A. 95-3) permits the recovery of damages for grief, sorrow, and mental suffering of the next of kin and applies to causes of action accruing on and after its effective date, May 31, 2007.

Use only those factors 1-9 which are applicable to the facts of the case.

This instruction should be used with IPI 31.09 which explains why the suit is brought in the name of the personal representative of the deceased.

This instruction should be used with IPI 31.11 defining “society” whenever loss of society is claimed.

Comment

Resolving a conflict in the decisions of the appellate court, the Illinois Supreme Court has ruled that proven loss of a sibling's society is a “pecuniary injury” for which the other siblings can recover. *In re Estate of Finley,* 151 Ill. 2d 95 (1992). Unlike surviving spouses and lineal heirs, however, siblings are not entitled to any presumption of loss of society damages. *Id.*

Since there is no presumption of loss of a sibling's society, and there never has been any presumption of any loss of support or other damages in the case of siblings or other collateral heirs (*Rhoads v. Chi. & A. R.R.*, 227 Ill. 328, 335 (1907); *Wilcox v. Bierd,* 330 Ill. 571, 580 (1928); *Howlett v. Doglio,* 402 Ill. 311, 316 (1949); *Shehy v. Bober,* 78 Ill. App. 3d 1061 (1st Dist. 1979); *Dodson v. Richter,* 34 Ill. App. 2d 22, 25 (3d Dist. 1962)), it follows that only proven wrongful death damages are recoverable by collateral heirs.