31.01 Measure of Damages--Wrongful Death--Minor Child Decedent--Lineal 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 [lineal next of kin, *e.g*. parent] of the decedent for the pecuniary loss proved by the evidence to have resulted to the [lineal 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.

Where a decedent leaves [lineal next of kin], the law recognizes a presumption that the [lineal next of kin] has sustained some substantial pecuniary loss by reason of the loss of the child's society. The weight to be given this presumption is for you to decide from the evidence in this case.

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 [next of kin];]

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

[The pecuniary loss must be reduced by the expenditures that you find the parent(s) would have been likely to incur for the child had the child lived.]

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

In *Bullard v. Barnes*, 102 Ill. 2d 505, 517 (1984), the Illinois Supreme Court abolished the former presumption of loss of earnings and created a presumption for loss of the minor child's society. The Court held:

> [T]here can be no presumption of loss of earnings upon the death of a child since such a presumption represents an aberration from, rather than a reflection of, the typical family experience. However, we have concluded that parents are entitled to a presumption of pecuniary injury in the loss of a child's society, based on the holding expressed earlier in this opinion that the pecuniary injury for which parents may recover under the wrongful death statute includes this form of loss.