

CONTENTS

1. Executors may sue and be sued in certain cases for wrongs committed in lifetime of deceased
2. Death of either party not to abate suit

'THE LEGAL REPRESENTATIVES' SUITS ACT, 1855]
ACT No. XII OF 1855
[27th March, 1855]

An Act to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs?

WHEREAS it is expedient to enable executors, administrators or representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such executors, administrators or representatives; It is enacted as follows:—

1. Executors may sue and be sued in certain cases for wrongs committed in lifetime of deceased. An action may be maintained by the executors, administrators or representatives of any person deceased for any wrong committed in the time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death > * * *; and the damages, when recovered, shall be part of the personal estate of such person:

and further, an action may be maintained against the executors or administrators or heirs or representatives of any person deceased for any wrong committed by him in his lifetime for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death 4 * * *; and the damages to be recovered in such action shall, if recovered against an executor or administrator bound to administer according to the English law, be payable in like order of administration as the simple contract debts of such person.

2. Death of either party not to abate suit. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the executors, administrators or representatives of the party deceased:

Provided that, in any case in which any such action shall be continued against the executors, administrators or representatives of a deceased party, such executors, administrators or representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.]

'Short title given by the Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces and the Capital of the Federation, except the Extent Act, 1874 (15 of 1874), s. 3.

It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be namely:-

Sind... .. See Gazette of India, 1880, pt. I, p. 672.

The Districts of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. [Portions of the Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now from the N.W.F.P., see Gazette of India, Pt. I, p. 575; but its application to that part of the Hazara District known as Upper Tanawal has been barred by the Act of 1900 (2 of 1900)]-See Gazette of India, 1886, Pt. I, p. 48.

?See the Civil Procedure Act, 1833 (3 & 4 Will. 4, c. 42), s. 2.

>The words "and provided such action shall be brought within one year after the death of such person" read with the Limitation Act, 1871, Sch. I. For limitation, see now the Limitation Act, 1908 (9 of 1908).

"The words "and so as such action shall be commenced within two years after the committing of the wrong"

see now Act 9 of 1908.