



An Overview of FELA Litigation

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FEDERAL EMPLOYERS' LIABILITY ACT (FELA)

- In General. FELA, 45 U.S.C. §§ 51-60, governs the liability of rail carriers for injuries or death to employees resulting from negligence.
- FELA provides rail carrier employees a right of action in negligence against their employer.
- Liability. A common carrier by railroad engaged in interstate or foreign commerce is liable for damages to an employee who suffers injury or death resulting in whole or in part from the negligence of any officer, agent, or employee of the carrier.
- Liability may arise by reason of defect or insufficiency due to the carrier's negligence in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.
- Employer negligence may arise through the carrier's failure to provide a safe place for work, safe work methods, or safe appliances.
- Recovery may be had for work-related disease or illness, if employer negligence can be established.
- Quantum of Proof. The rail carrier is liable if the proof justifies with reason the conclusion that employer negligence played any part, even the slightest, in producing the injury or death.
- It does not matter that, from the evidence, the jury may also with reason, on grounds of probability, attribute the injury or death to other causes, including the employee's contributory negligence.
- FELA expressly imposes liability upon the employer to pay damages for injury or death due in whole or in part to its negligence.
- A cause of action under FELA may be based upon a violation of the Safety Appliance Act (45 U.S.C. §§ 1-16, requiring certain safety appliances and equipment on railroad cars and engines for the use and protection of employees and travelers) or the Boiler Inspection Act (45 U.S.C. §§ 22-34, requiring the use of safe locomotives, parts, and appurtenances). Where violation of these safety statutes is shown, no further showing of negligence is required, only the causal relation between the violation and the injury.
- Defenses. A defendant rail carrier may not plead the contributory negligence of an employee as a full defense and bar to recovery. Rather, damages are to be diminished by the jury in proportion to the amount of negligence attributable to the employee.



- Contributory negligence may not be used as a defense to mitigate damages where violation of a federal safety statute is involved.
- A defendant rail carrier may not plead the defenses of assumption of risk and the fellow servant doctrine.
- Damages. Damages are for the jury to determine. There is no limitation on the damages to be awarded by juries except as to the courts' limited right of review.
- The elements of damages for injuries are: (1) loss of wages, (2) loss of earning capacity, (3) pain and suffering, and (4) medical expenses.
- The measure of damages and, in case of death, the right to damages are governed by federal rather than state rules.
- Punitive damages may not be recovered.
- The award is not subject to income taxes, and should reflect the present value of future lost earnings.
- State courts may not award prejudgment interest.
- An award of attorney's fees is not authorized.
- Death Claims. In case of death of the employee, the cause of action is brought by the personal representative of the decedent for the benefit of the widow and children.
- The courts have interpreted the wrongful death provisions of FELA to be strictly compensatory. The widow is entitled to recover the reasonably anticipated monetary contributions over the life expectancy of the decedent, and the children are entitled to damages for the remaining years of their minority or, in the case of invalid children, for their reasonable years of expected dependency. There is no cause of action or recovery for loss of consortium, love and affection, or for grief. A cause of action survives to the personal representative for the conscious pain and suffering of the decedent.
- If the decedent is not survived by a widow or children, the parents have a cause of action for any damages which may have been suffered by them. It is necessary for the parents to show contributions or expectancy of contributions from the decedent.
- If the decedent is survived by neither widow, children, nor parents, then the cause of action is given to any dependent next of kin and, lacking anyone in these classes, there would be no recovery.
- There is no cause of action on behalf of the estate, and the recovery is strictly for the designated beneficiaries and does not become an asset of the estate.



- Federal vs. State Laws. FELA serves as the exclusive remedy in all cases coming within its terms, and supersedes all applicable state laws. Thus, FELA supersedes state workers' compensation acts.
- The action can be brought in either state or federal court. FELA provides for concurrent jurisdiction between state and federal courts.
- An action filed against a rail carrier in state court is not removable to federal court.
- In general, FELA cases adjudicated in state courts are governed by state procedural rules and federal substantive law.
- Statute of Limitations. There is a three-year statute of limitations, regardless of the state law where the injury occurred.
- Venue. Venue in federal courts lies in the court of the United States in the district of the residence of the defendant, the district in which the cause of action arose, or the district in which the defendant is doing business at the time of commencing such action. Courts have given substantial deference to the plaintiff's choice of venue.
- The Missouri venue statute, RSMo § 508.040, expressly permits an action against a rail carrier (1) in the county where the cause of action accrued, (2) in any county where the carrier owns, controls, or operates a railroad, or (3) in any county where the carrier has or usually keeps either an office or agent for the transaction of its usual and customary business.
- Some states have adopted the doctrine of forum non conveniens, which refers to a court's refusal of jurisdiction when convenience of the parties and justice would be better served if the action were brought and tried in another forum. In Missouri, the doctrine is applied at the discretion of the trial judge.
- Third-party Practice. In an action under FELA, a defendant rail carrier may file a third-party complaint against a party who is alleged to be liable to the defendant for all or part of the plaintiff's claim.
- In an action under FELA, a defendant rail carrier may file a third-party claim for indemnity or contribution.