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There's something wrong with B.C.'s wrongful death laws

By Gordon Clark (The Province)

Link: <http://theprovince.com/opinion/theres-something-wrong-with-b-c-s-wrongful-death-laws>

Imagine, if you will, driving along in the family car with your children carefully strapped into their seats. Maybe you're returning from a day at the beach, maybe you've just been out for groceries, or maybe you're on your way to visit their grandparents in another town. The scenario doesn't matter.

As you drive through an intersection with the right of way, a drunk driver, or even just an inattentive driver, runs through a stop sign and t-bones your car, instantly killing one of your kids.

It's a nightmare, right? You've done nothing wrong, and suddenly your precious child is gone, taken from you by someone else's actions.

In your grief, no one would question that you might want to sue for your loss. But do you know what your child's life is worth under B.C. law?

Nothing. You heard me right, not a damn thing.

Unless your kid is earning a living that you rely on where you can sue for loss of income, children, along with retired parents, many disabled people and others who don't enjoy an income are viewed as having no worth when it comes to the laws of British Columbia.

The issue, which was in the news recently with the horrifying case of ALS patient Judith Jarabek-Gray, who suffocated after a Fraser Health employee neglected to replace the batteries in her ventilator, was brought further to our attention at The Province Tuesday in an editorial board meeting with lawyers Donald Renaud and Erin Berger, and Ben Doyle of the Trial Lawyers Association of B.C., who are fighting for the creation of wrongful death legislation in B.C.

Even in cases of gross negligence, bereaved people in B.C. are told that the loss of their children, parents, siblings is worth nothing. The best they can hope for is a small award for the cost of a funeral and a little money in the case of children, for the loss of a parent's future guidance, but we're talking about miserly \$10,000, said Berger.

This needs to change. What this comes down to is for people who have been horribly damaged by the wrongful death of a loved one to be able to feel a sense of justice,

which they don't have at the moment in B.C., unlike other jurisdictions where awards for wrongful death are routine.

Renaud pointed to the case of OJ Simpson. The family of Ronald Goldman, one of Simpson's victims, was able to successfully sue OJ for the murder of their son, even though Simpson was acquitted on the criminal charges due to a different burden of proof in the civil courts. In other words, even though OJ walked, the family was able to get some sense of justice through a wrongful death case.

In B.C., generally these cases would involve motor-vehicle accidents, although medical malpractice, others accidents and criminal acts would also qualify, Renaud said.

As it stands, family members of people who've been killed in B.C. are left with no sense of justice, the stress of which can lead to family breakdown, divorce and ongoing emotional problems.

Proposals on reforming B.C.'s wrongful death cases have been on the desk of the Attorney General for three years, but there is no sign anyone in government is listening or taking the issue very seriously. No one from government even bothered to get back to our reporter when we tried to ask questions lately.

The Attorney General should get off his duff and look into this issue. The notion that a person has no worth in law, unless they are earning a living and supporting another individual, is plainly wrong.

In B.C., the courts have placed limits on the size of awards, so these cases aren't going to result in massive, multi-million-dollar settlements. But it does seem reasonable that parents who've lost a child, for example, through another person's neglect or inaction should be compensated in a reasonably significant way for that loss and not be told to simply go away.

Here's a link to a recent Province story on the issue, as well as the 2008 report, "In their name: The Call for a Wrongful Death Act in B.C." for the B.C. Coalition of People with Disabilities.

http://www.disabilityalliancebc.org/docs/intheirname_fullcolweb.pdf

What do you think?