

# TEXAS WRONGFUL DEATH GUIDE

*What To Do If You Lose A Loved One  
Through The Negligence Of Another*



LAW FIRM

GARCIA | OCHOA



Nothing compares to the grief of losing a loved one, especially in an accident that could have been avoided. We would like to express our deepest sympathies. It is not an easy thing to deal with and takes time to process. You may be suddenly swamped by medical bills, funeral expenses, and lost wages. It is most unfortu-

nate that you have to go through this, but with the help of our Texas wrongful death attorney, we can get compensation for your losses and damages. We know that the grief is probably too much to handle already, so we will take over all of the legal factors of your case. After you read about the case a little bit, please do not hesitate to call our office to set up a free consultation.

## TYPES OF WRONGFUL DEATH CLAIMS

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Wrongful death is an umbrella term of sorts that covers a lot of different types of accidents. For a claim to be considered wrongful death, there must be negligence that lead to injury/fatality. These incidents are also classified as accidental or else they would be criminal, not civil cases. Some of the most common types of wrongful death claims include a fatality as a result of:

- » Auto accidents
- » Slip and falls
- » Construction accidents
- » Pedestrian accidents
- » Bicycle accidents
- » Medical malpractice
- » Boating accidents
- » Nursing home abuse
- » Workplace injury
- » Drowning

We have experience handling all of these kinds of wrongful death claims. Each case is a little bit unique, and when hiring an attorney, you want to take into consideration their experience with your particular claim. If you lost someone due to an auto accident, you should try to find an attorney who has successfully handled a wrongful death claim involving an auto accident before. Who you choose for your case has a huge impact on your potential compensation award.

## HOW TEXAS WRONGFUL DEATH COMPENSATION WORKS

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Wrongful death compensation is a slightly complicated thing. There are two means to getting compensation with this type of claim. It's not as straightforward as a personal injury claim. The first way to get compensation is through wrongful death damages which is a simple matter of math. You will be given the amount of money that your loved one would have provided for you, considering their earning capacity and the amount of financial set back you will have to face, as well as any medical bills you have had to pay if they had injuries that were treated for before they passed. It will also cover the funeral costs. The wrongful death damages are easier to calculate because there is a money dollar attached to all of these expenses. The second type of damage that is harder to collect for involves the pain and suffering that your loved one had to suffer through and the loss you have had to endure because of someone else's negligence. These damages are harder to put a dollar amount behind because they are not tangible damages. These compensatory awards are going to be decided upon once the case is better understood by all parties.



# HOW LONG YOU HAVE TO FILE A WRONGFUL DEATH CLAIM IN TEXAS

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The best way to make sure that you are going to have the best chance at a successful case is to hire a competent and experience attorney right away. There is a time limit given after someone passes in which you are to bring your claim or settle it in civil court. This is called the statute of limitations. In Texas, you are given two years from the date of the accident or the passing of your loved one to bring or settle your claim. We do not encourage waiting. It is ill-advised to wait until the last minute because we may not be able to help you bring your claim. If you miss your deadline, you will no longer be eligible for a wrongful death claim. These cases take time. It takes time to determine who specifically will be allowed to bring the claim, and it takes time to build a strong claim.



## FREQUENTLY ASKED WRONGFUL DEATH QUESTIONS

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### *What Do I Do After the Incident?*

There are several things that need to be done after you have lost a loved one to bring forward a wrongful death claim. The first thing is to hire a lawyer experienced in handling wrongful death cases. In a wrongful death case, there may need to be evidence preserved. This can be done through a lawyer to make sure that the area where the accident happened gets examined. If there's any video of where the accident happened, that video also needs to be preserved. These are things that an experienced lawyer can do for you.

There may need to be an expert that gets hired to do an examination. A lawyer can help guide you. Depending on how the accident happened, there may need to be an autopsy. The lawyer can help guide you through this process.

The lawyer can also send preservation letters so the companies that are involved do not destroy the evidence. By hiring an experienced lawyer, this can all be taken care of.

## *Who Can File a Wrongful Death Lawsuit?*

The other day, we had a client come in whose family member had unfortunately passed away. They wanted to know who can file a claim for wrongful death on behalf of their family member.

In Texas, the only people that can file a claim based on a wrongful death are the spouse, children, or parents of the deceased. It can get complicated and it can get tricky.

## *What Compensation Are We Entitled To?*

I had a family come in the other day who lost a loved one. One of the questions they had is what type of damages they are entitled to seek in a wrongful death claim. Under Texas law, there are several things that they can ask for. One of the things is the amount of pain and suffering that their loved ones suffered as a result of the accident.

Another item they would be able to seek recovery for is lost wages: how much money was the person earning, and over the future, how much they would have earned, including loss of inheritance? The family would also be entitled to seek mental anguish damages for the amount of suffering that they had to endure as a result of the death of their loved one.

## *How Much is the Claim Worth?*

If you have lost a loved one recently because of negligence, we are truly sorry for your loss. When determining the value of a wrongful death case, there are several things we need to look at. First, we need to look at how and why did the accident happen.

In a case we recently had, a family member was hit by an 18-wheeler. We needed to look at the applicable regulations that apply to an 18-wheeler. Were those regulations violated in any way, either by the trucking company or by the driver? We also had to examine what time of day the accident happened. What are the specific factors as far as how the accident happened?

One of the other things that we're going to look at is the wage rate that the deceased was earning. In this particular situation, it was a pharmacist who was a high-wage earner. This is just one of the various factors.

One of the most important factors is the type of relationship that the deceased had with their family. How close were they? For example, in this particular case, the father had a very close bond with his family. The jury is going to look at the impact of loss of companionship? What is the loss of support? What is the loss of guidance they had? What was the loss of the inheritance? All of this gets grouped together to determine the value of the case.

The last thing we're going to look at is the amount of insurance that was involved. All of this depends on the nature of the accident and the different parties involved. The amount of insurance is going to vary depending on how this type of accident happened.

## *How Long Will This Case Take?*

In the state of Texas, to resolve a wrongful death case there are several factors that have to be looked into. Typically, I would say that a wrongful death case involves a violation of several safety rules that led to the accident. In order to hold a company liable for violating those safety rules, we have to look at each regulation and determining how and why they were violated. That takes time. In my estimation, I would say two to three years at least is needed to resolve a wrongful death case.





There are occasions where a company will admit that they did something wrong and pay. However, these are few and far between. I would say the chances of that happening would be 2%. Otherwise, you're in for a long fight.

## CONTACT OUR OFFICE TODAY FOR A FREE CONSULTATION

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We understand how difficult this time must be for you and your family and we want to help. We can take the weight of a wrongful death case off of your shoulders and help you get the best possible result from the liable party's insurance company. When you hire us to be your Texas wrongful death attorney, you will have us to safeguard you through every step of the process. Please call our office today to set up a free consultation where we will go over the details of your claim and inform you on your legal options. Again, we are deeply sorry for your loss and we are eager to help you get the best possible result from your wrongful death case.

## ABOUT THE AUTHORS:

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Garcia & Ochoa, LLP is a dynamic law firm with an ever-evolving quest for excellence, yet our focus is not myopic in any way. We passionately share our knowledge in a proactive, thorough and open manner. We always make time to help our clients & colleagues and never too busy for your questions, comments or concerns.

Over the course of the past three decades, we have successfully handled a wide variety of cases against companies and individuals in Texas and across the nation.



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