

If you have lost a loved one due to a crash [with an 18-wheeler](#) or any other type of large truck, you and the other surviving family members have likely gone through a variety of emotions. Along with intense grief, you may be wondering what to do next and whether you, as family members, have any legal rights. In North Carolina, the process of bringing a wrongful death claim can be complex, and it requires a thorough understanding of the state's laws and regulations.

Working with a wrongful death attorney will help you understand the key aspects of a [wrongful death](#) claim for a fatal truck accident in North Carolina, including the legal basis for the claim, who can file it, the types of compensation available, and why you should not go it alone.

Understanding Wrongful Death Claims in North Carolina

A wrongful death claim is a legal action brought by the surviving family members or representatives of a deceased person who died as a result of another party's negligence, wrongful act, or default. In North Carolina, wrongful death claims are governed by state statutes, specifically [N.C. General Statutes § 28A-18-2](#).

Key Elements of a Wrongful Death Claim

To succeed in a wrongful death case in North Carolina, the plaintiff (i.e., the injured party) must establish the following:

1. The death was caused, in whole or in part, by the wrongful act or negligence of the defendant, who owed a duty of care to the deceased. In the context of a truck accident, this duty includes obeying traffic laws, operating the vehicle safely, and following federal and state regulations governing commercial vehicles.
2. The defendant would have been liable to the decedent if the injury had not proved fatal on the basis that the defendant's breach of duty directly caused the accident and the resulting death. In such cases, it must be shown that the fatal injuries were a direct result of the defendant's actions or inactions.
3. There are survivors who are dependent on the deceased, and the death resulted in quantifiable damages, including medical expenses, funeral costs, lost income, and emotional suffering endured by the surviving family members.

Who Can File a Wrongful Death Claim in North Carolina?

In North Carolina, a claim for wrongful death must be brought by the personal representative of the decedent's estate. The personal representative is typically an individual named in the will of the deceased (or appointed by the court to administer the estate if there is no will) and serves in the name of the decedent's estate for the benefit of the decedent's surviving family members.

Beneficiaries of a Wrongful Death Claim

While the personal representative files the claim, the damages awarded in a wrongful death lawsuit are for the use and benefit of the deceased's surviving family members. Potential beneficiaries include:

- Spouse: The deceased's surviving spouse is typically the primary beneficiary.
- Children: The deceased's natural and adopted children are entitled to a share of the damages.
- Parents: If the deceased was unmarried and had no children, that individual's parents (if they're still alive) may be beneficiaries.
- Other Relatives: If the deceased individual's parents, spouse, or children are no longer living, then other relatives, such as a sibling, may be entitled to compensation.

Types of Compensation Available in a Wrongful Death Claim

Compensation in a wrongful death claim is intended to address both the economic and non-economic losses suffered by the surviving family members. In North Carolina, the following types of damages may be available in a wrongful death claim:

Economic Damages

Medical Expenses: The costs of medical treatment and care for the deceased before death (hospital bills, surgeries, medications, etc).

Funeral and Burial Expenses: Provides reimbursement for the reasonable costs of the deceased's funeral and burial (or cremation).

Loss of Income and Benefits: Damages covering the deceased's earnings would have received had they lived, including wages, pension, bonuses, and other benefits.

Loss of services: For the loss of care and assistance that the deceased would have provided to their dependents but for their death and for the loss of their financial contribution.

Non-Economic Damages

Pain and Suffering: For the physical pain and suffering and emotional distress that the deceased suffered before death, and for the emotional suffering of the family members that survive the deceased.

Loss of Companionship and Consortium: Benefits for loss of care, attention, advice, comfort, and companionship provided by the deceased.

Punitive Damages: In cases where the defendant's conduct is particularly egregious or reckless, punitive damages, which are designed to punish the wrongdoer and discourage others from behaving similarly, may be awarded.

The Statute of Limitations for Wrongful Death Claims in North Carolina

The statute of limitations is the amount of time a person has to file a wrongful death claim. In North Carolina, the statute of limitations for a wrongful death is two years from the date of the person's death. Therefore, a personal representative has two years to file the claim in court.

Exceptions and Special Circumstances

Although the general rule is that there is a two-year deadline, the statute of limitations can be extended or impacted in special circumstances, such as:

- The Discovery Rule: If the cause of death was not immediately apparent and was discovered later, that situation would thereby delay the statute of limitations.
- Minors and Incompetent Individuals: If any potential beneficiary is under a legal disability (e.g., a minor or someone deemed legally incompetent), the statute of limitations may be tolled (meaning, the period stops running) until that person becomes a legal adult or is no longer under a disability.

Missing the deadline is very serious as it results in losing the right of recovery forever, so anyone seeking to pursue a wrongful death claim must act fast and consult with a wrongful death attorney immediately.

The Role of Trucking Companies and Other Parties

In most instances, when a truck accident results in wrongful death, the person operating the truck is not the only potential defendant in the wrongful death claim. The owner or operator of the truck, as well as other entities, may also face liability. Possible defendants in a wrongful death claim arising from a truck accident may include:

The Trucking Company: Trucking companies can be held liable for the actions of their drivers under the legal doctrine of vicarious liability, which holds employers responsible for the negligent actions of their employees.

Additionally, trucking companies may be directly liable for:

- **Negligent Hiring:** Hiring drivers without proper qualifications, training, or a clean driving record.
- **Negligent Supervision:** Failing to adequately monitor and enforce safety regulations and driving practices.
- **Poor Maintenance:** Failing to keep the truck in good condition, which leads to mechanical failure or unsafe driving.

Vehicle and Parts Manufacturers: If the accident was caused or exacerbated by a defect in the truck or any part of it, the maker of the vehicle or the defective part could be liable under product liability principles.

Cargo Loaders: An accident can be partly caused by the cargo not being appropriately packed or secured on the truck, which makes the truck imbalanced. As a result, the company that loaded the cargo onto the truck can also be responsible.

Proving Liability in a Wrongful Death Truck Accident Case

Establishing liability in a wrongful death case involving a truck accident requires a thorough investigation and the collection of evidence. Key steps in proving liability may include:

Accident Investigation

An in-depth investigation of the accident scene is crucial. This may involve:

- Collecting evidence such as vehicle debris, skid marks on the roadway, and damage to the surrounding area.
- Reviewing the official accident report compiled by law enforcement officers, which might contain key information related to the cause of the wreck and the involved drivers.
- Interviewing Witnesses and gathering statements from those who saw the accident occur.
- Examining the truck driver's logbook, maintenance records, and other documents to determine if there was a violation of federal or state regulations.

Expert Testimony

Expert witnesses can play a vital role in establishing liability. For example, accident reconstructionists can recreate the accident scene and provide their expert opinion on what happened and who was at fault.

Likewise, doctors and other medical personnel can provide an opinion on the cause of death and the extent of injury to the deceased. An economic expert can calculate the financial loss to a beneficiary due to the decedent's death, including income, benefits, and future earning potential.

Why It's Best to Work With a Skilled Wrongful Death Lawyer

Pursuing a wrongful death claim after a truck accident in North Carolina can be a complex and emotionally challenging process. Trucking companies and their insurers often have significant resources to fight these claims, making it crucial to have experienced legal representation on your side.

An experienced wrongful death lawyer can thoroughly investigate the accident and build your case, as well as negotiate with the insurance companies on your behalf so that you are properly compensated for your loss.

Additionally, attorneys can draft and file all paperwork required by law before the statute of limitations runs out. If a settlement cannot be reached, your attorney can represent you in court and fight for the compensation you are entitled to.

Let Our Team Help During Your Time of Loss

Few things are worse than losing a spouse, child, or parent in a tragic truck accident. No amount of money can bring back a loved one or undo the catastrophic effects of a fatal accident. But if you can prove that someone is legally responsible for your loved one's death through a wrongful death claim, you can obtain the compensation your family may desperately need and hold the responsible parties accountable.

In North Carolina, wrongful death claims are complicated by fine print and technical details that are likely not at the top of your mind at the time. That said, it's crucial that you retain the services of an attorney who thoroughly understands North Carolina law and can help you navigate the complex process of claiming wrongful death.

If your loved one has been killed in a truck accident, act fast and seek quality legal advice to ensure that your rights are protected and that your family is appropriately compensated. [Contact](#) our office today.