

FELA

The Federal Employers Liability Act was passed by Congress in 1908, for the purpose of providing compensation to railroad employees who are injured on the job. It enables injured employees to bring claims directly against their employers where it can be shown that it was the railroad's negligence that caused the injury.

Negligence is defined as the railroad's failure to exercise reasonable care in its obligation to the employee. It could be as a result of not providing a safe place to work, proper tools and equipment to do the job, or adequate help or training. The courts have held that the employer's negligence does not have to be the sole cause of the accident. So long as the carrier was at fault in the slightest degree it is enough to establish the right to bring a claim.

If the employee was also at fault in causing the accident the jury can reduce his award by the percentage that he was at fault. For example, if the damages totaled \$100,000.00 but it was determined that the employee was 25% at fault, the net award would be \$75,000.00. Under the FELA the injured employee may file a lawsuit in the state or federal courts and have a jury decide the damages, if any, to which he is entitled. Unless the claim is settled the lawsuit must be filed within three years of the date of the accident.

As distinguished from state workman's compensation laws, there is no schedule of benefits, whether weekly or otherwise to which an employee is entitled. Instead there are elements that determine damages. They include lost wages, pain and suffering, permanency of injury and effect on life style, future pain and suffering, future lost wages, and out-of-pocket expenses including medical costs.

Usually the damages under the FELA can be significantly greater than that which would normally be collected if under workmen's compensation. Because the FELA involves bringing a claim directly against the employer, the railroads make every effort to keep the amount they pay out as low as possible.

In order to counter this, and because it is a specialized area of the law, the BLET has appointed "designated counsel" around the country to whom members can go for guidance, advice, and representation. They are all experienced in handling FELA claims.