

106.48 WRONGFUL DEATH DAMAGES - FUNERAL EXPENSES.

*(Use for claims arising before 1 October 2011. For claims arising on or after 1 October 2011, use N.C.P.I.- Civil 810.48A; 810.48B; 810.48C; 810.48D.<sup>1</sup>)*

Damages for (*name deceased's*) death also include all funeral (and burial)<sup>2</sup> expenses reasonably paid<sup>3</sup> or incurred<sup>4</sup> by the estate.

(The parties have agreed and stipulated that the estate's reasonable funeral (and burial) expenses were (*state amount*).)

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1. See 2011 N.C. Sess. Laws 317 § 1.1 (modifying 2011 N.C. Sess. Laws 283 § 4.2).

2. There is no right of recovery for burial expenses separate and apart from the right to recover for wrongful death. Burial expenses are to be recovered out of the amount to be recovered in the action. *Davenport v. Patrick*, 227 N.C. 686, 44 S.E.2d 203 (1947).

3. Where there is an issue as to the reasonableness of the funeral or burial expenses, the jury may also be instructed:

As to the reasonableness of the expenses the Estate has the burden of proof by the greater weight of the evidence. However, where the Estate has put into evidence the amount of such expenses and has provided records or copies of such charges, you may find them this evidence alone that the charges are reasonable, but you are not compelled to do so.

See N.C. Gen. Stat. § 8-58.1 and Rule of Evidence 301.

4. Proof of actual payment need not be made as long as the evidence competently establishes that the expense was incurred. Furthermore, the fact that some or all of the decedent's funeral or burial expenses were paid by a third party insurer or some, other collateral source generally does not deprive the Estate of the right to recover them.