

## PUBLIC UTILITIES

**66-232. Action for damages by fire.** In all actions against any railway company organized or doing business in this state, for damages by fire caused by the operating of said railroad, it shall be only necessary for the plaintiff in said action to establish the fact that said fire complained of was caused by the operating of said railroad, and the amount of his damages (which proof shall be prima facie evidence of negligence on the part of said railroad): *Provided*, That in estimating the damages under this act, the contributory negligence of the plaintiff shall be taken into consideration.

**History:** L. 1885, ch. 155, § 1; May 1; R.S. 1923, 66-232.

**66-233. Action for damages by fire; attorney fee.** In all actions commenced under K.S.A. 66-232 and 66-233 and amendments thereto in which judgment is rendered against any railroad company for damages by fire caused by the operating of such railroad, if it appears from the evidence that such company has refused without just cause or excuse to pay the full amount of such damages, the court in rendering such judgment shall allow the plaintiff a reasonable sum as an attorney fee for services in such action, including proceeding upon appeal, to be recovered and collected as a part of the costs. When a tender is made by such railroad company before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of such tender no such costs shall be allowed.

**History:** L. 1885, ch. 155, § 2; R.S. 1923, 66-233; L. 1994, ch. 136, § 1; July 1.