

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW

SUIT NO. C.L. 1985 A-102

BETWEEN	THE ADMINISTRATOR GENERAL (ADMINISTRATOR-EST. GARTH BETHUNE GRINDLEY, DECEASED)	PLAINTIFF
A N D	PAMELLA WRIGHT	FIRST DEFENDANT
A N D	ERIC WRIGHT	SECOND DEFENDANT

Mr. Clinton Hines for Plaintiff.

Mr. Dennis Morrison for Defendant.

July 30, 1986 & May 26, 1987

JUDGMENT

PANTON, J.

Garth Bethune Grindley was an extraordinary man. He was 35 years old at the time of his death; yet, he had sired thirteen (13) children by at least nine women. It seems as if he may have been running out of names for these children as there are two daughters who bear the name 'Karen' and another two who are known as 'Janet'. Garth Grindley lived with one of these women, Kathleen Parchment, at Lover's Lane, Black River. She described him, in evidence, as one who used to wear fancy clothes; one who was "handsome, quite loving, friendly, and very hardworking". He died on February 1, 1982, at the Kingston Public Hospital, after having been involved in a motor vehicle accident.

The present action was brought by the Administrator General on behalf of Grindley's estate. The Court is being asked to assess damages under The Law Reform (Miscellaneous Provisions) Act and The Fatal Accidents Act for the benefit of the estate and the near relations respectively.

The evidence on which this assessment is to be made comes from the witness Kathleen Parchment. There are no documents to indicate the level of earnings of, or expenditure by, the deceased. The Court has therefore to do its best with the evidence of Miss Parchment.

The evidence presented has clearly established that the deceased had at least fourteen (14) near relations who have suffered pecuniary loss as a result of his death. These near relations are the thirteen (13) children referred to earlier and the mother of the deceased. Miss Parchment testified that the deceased used to pay \$25 - \$30 per week towards the maintenance of each child and \$10 per week to his mother. So far as the children are concerned, I think there was an exaggeration on the part of the witness, particularly considering that in relation to at least one child the mother found it necessary to obtain a Court order for maintenance. I find that \$15 per week is a more realistic figure. I am further satisfied that these maintenance payments would have continued until each child was at least 18 years old. In relation to the mother of the deceased, I agree with the view of the learned attorneys-at-law that this payment would have continued for another ten years.

The awards under The Fatal Accidents Act are therefore as follows: -

	<u>NAME OF CHILD</u>	<u>PERIOD</u>	<u>AMOUNT</u>
1.	Michael	2 years	\$ 1,560
2.	Karen (born 1970)	6 years	\$ 4,680
3.	Juliet	6 years	\$ 4,680
4.	Janet (born 8.9.70)	6 years	\$ 4,680
5.	Gerald	9 years	\$ 7,020
6.	Steve	9 years	\$ 7,020

7.	Ed Anthony	9 years	\$ 7,020
8.	Karen (born 12.3.74)	10 years	\$ 7,800
9.	Mario	14 years	\$ 10,920
10.	Janet (born 1978)	14 years	\$ 10,920
11.	Garth	14 years	\$ 10,920
12.	Trivian	16 years	\$ 12,480
13.	Bethune	18 years	\$ 14,040
Total			<u>\$107,740</u>

In the case of the mother, the amount awarded is \$5,200.00. The total award under The Fatal Accidents Act is therefore \$112,940.00.

So far as the awards under The Law Reform (Miscellaneous Provisions) Act are concerned, I consider that an award of \$3,000 for the loss of expectation of life is appropriate.

Under the heading "Special Damages" in the pleadings, the amounts claimed at (a), (b) and (d) have been proven and an award is made accordingly. In relation to the claim for loss of profit on contract, no documentary evidence was presented. However, the witness said she was aware of a \$9,000 contract between the deceased and one Brother Sam and that the deceased had spent two weeks on that job without any remuneration. So far as the loss on this contract is concerned, in the absence of more specific evidence, the Court can see this loss at no higher than \$3,000. The total Special Damages being awarded therefore is \$5,490.

Now, I come to deal with the "lost years". The deceased was an electrical contractor. He also made antennas for television sets and repaired motor-bikes, clothes irons and polishers. As indicated earlier, the evidence was not as specific and detailed as one would have liked so far as earnings and expenditure are concerned. The Court was supplied with estimates by Miss Parchment. In assessing

her as a witness, I concluded that she was prone to exaggerate the earnings of the deceased. She said that the minimum that he brought home each week was \$750, and that he sometimes brought home \$2,000. Bearing in mind this tendency of the witness to exaggerate and considering the vagaries of the deceased's calling, without ignoring general economic factors, I concluded that the most that the deceased would have taken home at the end of any one week, on average, would be \$500.

Considering that the deceased led an extraordinary personal life, one which involved many women, I found that he would have used for his personal maintenance no less than \$300 per week. After all, he was a fancy dresser! The surplus therefore would have been definitely no higher than \$200 per week.

In determining the multiplier, I have considered the age of the deceased and the fact that although he was single he had an established pattern of employment and life. I consider a multiplier of 14 reasonable.

$$\$ 200 \times 52 = \$ 10,400 \text{ per year}$$

$$\$10,400 \times 14 = \$145,600.$$

It should be noted that this amount is higher than that under The Fatal Accidents Act. It is the amount from which the near relations would have benefited had the deceased lived; and seeing that there is no desire for them to benefit twice, the award under The Fatal Accidents Act will now be set off in relation to the award under The Law Reform (Miscellaneous Provisions) Act, except so far as the mother is concerned she not being a beneficiary under the estate of the deceased.

SUMMARY OF AWARDS

The Fatal Accidents Act	-	\$112,940	-	\$107,740 to children 5,200 to mother
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The Law Reform (Miscellaneous Provisions) Act	- \$154,090	- \$ 3,000: loss of expectation of life
		\$ 5,490: Special Damages
		\$ 145,600: Lost years

The Administrator General is appointed trustee on behalf of the children who are under the age of eighteen years. The other amounts payable are to be paid to the attorneys-at-law on behalf of the beneficiaries.

It is calculated that the deceased, had he lived, would have by the time of this judgment, paid \$50,700 to the children. Interest at 3% per annum is awarded on that amount from February 1, 1982 to the date of the judgment.

In relation to the Special Damages (\$5,490), interest is awarded at 3% per annum from February 1, 1982.

The costs of the proceedings are to be agreed or taxed.