

What can a widow expect from husband's estate?

September 2019

There is no such thing as a "standard widow". Every case must be determined on its own particular circumstances. Note that Courts give more attention to the needs of a widow than they do to the needs of the children, especially if the children are adult and well able to support themselves.

The court must assess whether the provision made in the will was inadequate for what in all the circumstances was the proper level of maintenance appropriate for the applicant having regard amongst other things to the applicant's financial position, the size and nature of the deceased's estate, the totality of the relationship between the applicant and the deceased and the relationship between the deceased and other persons who have been provided for in the will or might have a claim.

"Proper maintenance" is not limited to the bare sustenance of a claimant but requires consideration of the totality of the claimant's position in life including age, status, relationship with the deceased, financial circumstances, the environs to which he or she is accustomed and mobility.

The trial judge, Justice Pemberton, believed that although the annuity would not allow Mrs Steinmetz to live extravagantly; she had not done so to date, and was not entitled to expect to commence a lifestyle of that description upon the passing of her husband.

Justices Brereton and White in the Court of Appeal found that proper provision for Mrs Steinmetz required the sum of \$1 million for accommodation. This figure seems to be a rounded approximation of the annuity (\$52,000 per year) multiplied by Mrs Steinmetz's approximate years remaining (20).

The Justices then concluded that, when taking into account the size of the estate, Mrs Steinmetz was entitled to an additional \$1.5 million. From this, they deducted Mrs Steinmetz's existing assets, totalling \$740,000 approximately. There seems to have been a slight disagreement between the appeals judges on this precise value, so a compromise was reached to award \$750,000.

This is how Mrs Steinmetz came to be awarded a lump sum of \$1.75 million from the estate.

Justice White summarised the situation like this:

“While by his will the deceased provided for the appellant’s income needs, he did so in a form - an annuity - which was not proper in the circumstances; and he failed to provide adequately for her accommodation. Accordingly, the deceased failed to make adequate provision for the proper maintenance and advancement in life of the appellant.”

The message for husbands would seem to be that they need to provide for their spouse, or the courts will do it for them. Just how this might inter-play with the need to provide for their children at the same time, children who may not be the issue of their spouse, is a matter for another day.

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