

**Fatal accident claim by widow on her own behalf and that of her minor child – settlement – application to the Royal Court to approve the settlement in so far as it related to a minor child, and to fix the proportion of the net amount to be received by that child – factors to be taken into account – settlement approved and net amount to be divided as to 94% to the widow and 6% to the child.**

**IN THE ROYAL COURT OF GUERNSEY  
(ORDINARY DIVISION)**

Richard Southwell QC, Lieutenant Bailiff, gave judgment as follows: -

**Judgment**

1. This action has been settled on terms providing for a payment by the Defendants of an amount which after legal costs will leave a sum of £500,000 or more.
2. The task of this Court is, first, to consider the settlement so far as it concerns the deceased's and Plaintiff's daughter, who is a child and will not reach her majority until some years hence, and if thought appropriate to approve the settlement; and secondly, to consider the division of the net amount to be received under the settlement between the Plaintiff and her daughter, and if thought appropriate to approve that division so far as concerns the child.
3. The need for the Court to undertake this task arises both to protect the interests of the child as a minor and to protect the Defendants against the possibility that the child might seek to upset the settlement when she achieves her majority at the age of 18.

**The Settlement**

4. Having regard to the issues in this action as spelled out in the mediation statements of position which the Court has seen, and my own consideration of those issues in the course of the interlocutory stages of this action, I have reached the firm conclusion that the settlement is sensible and appropriate. I have no doubt that the settlement is very much in the best interests of the child, and it is therefore approved.

**The Division Between Mother and Daughter**

5. By reason of a life insurance policy on the life of her deceased father, the child has received in trust the large sum of £110,000 to which she will become fully entitled at the age of 18.

6. A threshold question is whether her receipt of this sum is relevant to the Court's consideration of the proportion of the settlement amount which the child should receive.
  
7. The authorities cited by counsel for the Plaintiff show that the Court's task is to look at the realities of the position of each member of the family dependent on the deceased. The age of a minor must be considered because that is relevant to the period of the minor's dependency. If a widow has re-married (which is not the case with the Plaintiff) that is a relevant factor, since the degree of her dependency will have changed. If a godfather died at the same time as the father, and by his will left a large amount to the minor, the minor's receipt of that amount, which would go to reduce her dependency, would in my judgment be equally a relevant factor. Accordingly I reach the conclusion that receipt by the child of the benefit of the sum of £110,000 is also a relevant factor, because it reduces the extent to which she will be dependent on her mother until she reaches 18, and indeed thereafter until she leaves full-time education and training and earns enough to be able to house and maintain herself.
  
8. Counsel for the Plaintiff's initial submission was that, in view of the receipt by the child of the benefit of the sum of £110,000, it would be right that the Plaintiff should receive the whole of the net amount from the settlement, of £500,000 or a little more. The Court's response to that submission was to ask for further submissions based on relevant authorities to justify the exclusion of the child from any financial benefit from the settlement.
  
9. As a result Counsel for the Plaintiff helpfully provided the Court with further written submissions supported by authorities from Jersey and from England and Wales. In these submissions he proposed that the child should receive the benefit of 10%, that is, something over £50,000.
  
10. Having considered all the submissions and the authorities, and taking account of the sum received for the child under the life insurance policy, I reach the conclusion that the child should receive from the settlement moneys the benefit of 6%, or something over £30,000. In so deciding I take into account Counsel for the Plaintiff's original proposal that the child should receive nothing, and his subsequent proposal that she should receive 10%. One factor which has influenced me is that the child is likely to remain at least partly dependent on her mother not merely until the age of 18, but until she has completed her tertiary education and is earning enough to be able to house herself independently. Another factor is that it is clear that the Plaintiff will ensure that the sum she receives is, in part, used to maintain the child.
  
11. Accordingly I approve a division of the money to be received under the settlement, after legal costs, of 6% for the benefit of the child and 94% for the Plaintiff.