

# ASPECTS OF SERVICES DEPENDENCY

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**Guildhall**  
CHAMBERS

# FATAL ACCIDENTS ACT 1976

## Section 3(1)

*“Damages ... may be awarded as are proportioned to the injury resulting from the death to the Defendants ...”*

Vague but interpreted to restrict recovery to:

- Loss of a pecuniary benefit
- Which would have accrued to a dependant had the deceased have lived.

# SERVICES DEPENDENCY

Usual services: childcare, domestic chores, DIY, gardening

Other services: Book-keeping, car maintenance, dog-walking, care of grandchildren

Consider past and future losses

# VALUING THE SERVICES ...

*Welsh Ambulance Services NHS Trust v Williams* [2008] EWCA Civ 81

*“the dependency is fixed at the moment of death, it is what the dependents would probably have received as benefit from the deceased ... What decisions people make afterwards is irrelevant”*

# VALUING THE SERVICES

- Bad Mothers (*Stanley v Saddique* 1992)
- Wicked Step Mothers (*Laniyan* 2001)
- Past Services not provided? (*Williams v Welsh Ambulance* cf *H & S*)

# VALUING THE SERVICES

- Legal and General – Value of a Parent 2015
- Local Authority – baseline for “normal Parenting”

# ***LEGAL AND GENERAL – VALUE OF A PARENT 2015***

*“We’ve been researching the value of a parent for over 30 years .... Our research puts an average insurance value of the unpaid work that a parent does around the home.*

***Some key findings include:***

***£29,535 – the value of the domestic work a Mum does each year. For Dad's it's £21,601.”***

# Local Authority – baseline for “normal Parenting”

0-3 months	12 hours p/d + over night supervision
19 - 24 months	9 hours + o/n
2 - 3 yrs	8 hrs + o/n
4 - 5 yrs	7 + o/n or 3 hrs on school days
6 - 8 yrs	6 + o/n or 2 on school days
9 – 11 yrs	4 + o/n or 2 on school days
12 - 15	3 + 1
16 – 19	3 p/w



# VALUING THE SERVICES

- By reference to the cost of commercial care
- Discounted (where care is provided gratuitously)
- Lump sum (where imponderables)
  - *Laniyan* (2001)(12-21yrs)
  - *H & S* (2003) (4 x 11, 14, 19, 20 yrs)
- By reference to care providers lost earnings
  - *Mehmet v Perry* [1977] 2 AER 529
  - *Batt v Highgate Private Hospital* [2004] EWHC 707]

# ***RUPASINGHE V WEST HERTFORDSHIRE HOSPITALS NHS TRUST [2016]***

Wife & Mum lost career because of husband's untimely death.

Claiming for:

- Gratuitous and commercial cost of child care and
- Mum's lost earnings

C's case was not a proxy measure to value services

# Award for Intangible Benefits/ *Regan v Williamson* awards

Services where the quality is over and above that of a paid replacement.

Initially took the form of an increase in the award for services dependency and later a discrete award.

*ATH v MS* [2002] 19/11/8 yrs & £1000, £3500, £4500

*Fleet v Fleet* [2009] EWHC 3166

# *Mosson Spousal (London) Ltd 2016*

Claimed - an award to reflect the “*additional value and convenience in having someone who is willing and able to provide these services out of love and affection rather than bringing in outside help and contractors.*”

Held - Double recovery

- Advantages / Disadvantages to bringing in commercial contractors
- Overlap with bereavement award

