



Transcript of Proceedings

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SUPREME COURT OF QUEENSLAND

CIVIL JURISDICTION

JONES J

No 29 of 2001

LIAM SEAN BRAME-TERRY (an infant by his
litigation guardian GILLIAN BRAME)

Plaintiff

and

HENRY CHARLES FISCHER

First Defendant

and

SUNCORP METWAY INSURANCE LIMITED
(ACN 075 695 966)

Second Defendant

and

NEIL IAN PESE

Third Defendant

and

DOUGLAS SHIRE COUNCIL

Fourth Defendant

and

DAINTREE FERRY PTY LTD (ACN 009 649 969)

Fifth Defendant

CAIRNS

..DATE 07/09/2004

JUDGMENT

REVISED COPIES ISSUED
State Reporting Bureau

Date: 20 September, 2004

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: This is an application made by the litigation guardian of Liam Brame-Terry for the sanctioning of a proposed settlement of a claim for damages for loss of dependency arising from the death of his natural father on the 20th of November 1998. The plaintiff at that time was only one and a-half years of age. The original claim included, as well as a claim for loss of dependency, one for damages for nervous shock. When this claim was investigated it was found to be of no substance and was unlikely therefore to sound damages.

The settlement is put forward on the basis that the plaintiff had a claim for loss of dependency from his father.

Although the relationship was established there was no clear history of financial provision made by the deceased to the plaintiff. There was infrequent contact and the plaintiff's mother did not pursue the deceased for child support. There were however occasional payments and acknowledgement on occasions such as birthdays and Christmas.

In addition to that the deceased did not have a history of significant earnings and there did not seem to be great prospects of any change in that situation in the future. As a consequence there were a number of difficulties in establishing what was the level of dependency, and also, valuing the future dependency in those circumstances of some financial uncertainty.

I have been assisted by the opinion of Mr A J Williams dated
the 27th of July 2004 which was no doubt relied upon in
arriving at the settlement figure. I am satisfied that the
figures which have been referred to in that opinion would put
the plaintiff's claim at the highest level, and the fact that
settlement has been achieved at those amounts means that its
acceptance is in the interest of the plaintiff.

I am satisfied therefore that the proposed settlement should
proceed as being in the interests of the plaintiff. The
proposal is that The Public Trustee of Queensland will manage
the fund and that the cost for so doing will be paid from the
settlement sum.

In those circumstances I make orders in terms of the draft
initialled by me and placed with the papers. I direct that
the opinion of Mr Williams be placed in a sealed envelope and
marked, "Not to be opened except with the leave of the Court".
