

Widow wins €1.6m over loss of inheritance

Aoife
Finneran

THE widow of a farmer who died as a result of negligent medical treatment has been awarded almost €1.6m in damages because of the loss of an expected inheritance of a 623-acre farm.

Grace Davoren, a mother-of-four from The Barn, Ballyalben, Ballyvaughan, Co Clare, claimed she lost out on a €1.5m inheritance of her husband Michael's family farm.

Yesterday, Mr Justice Iarfhlaith O'Neill ruled in her favour, and awarded her and her family €1,591,957.70 in damages.

Mrs Davoren had sued the HSE (Western Area) consultant gastroenterologist John Lee and consultant surgeon Oliver McAnena following the death of her husband Michael (47) on August 31, 2003, at University College Hospital, Galway.

Mr Davoren had been suffering from colitis, which affects the colon. The defendants did not contest liability.

Mrs Davoren said her husband was an only son who had worked on the 623-acre family farm in Ballyalben all his life and was due to inherit it. He and his wife also ran a 269-acre farm in Ballycahill, adjoining the Ballyalben farm.

However, following his death,



Grace Davoren: claim

relations between his wife Grace and mother Maura deteriorated. Maura Davoren changed her will so that it benefited her daughter Mary O'Regan.

Grace Davoren had claimed that if her husband had not died before his mother, the farm would have been left to her.

Wrongful

Yesterday, the judge rejected an argument by the defendants that it was probably the falling out between Grace Davoren and her mother-in-law that had caused them to lose out on the inheritance of the estate.

He said that even if the falling out was the cause of Maura Davoren changing her will, this was directly due to a change in her state of mind caused by her son's wrongful death.

He added that he was satis-

fied Michael Davoren's dependents would have inherited the estate of Maura Davoren if it wasn't for his wrongful death.

The judge ruled that Mrs Davoren was entitled to €1,312,275 for the loss of inheritance of Maura Davoren's estate as well as €184,271 to cover the loss of income.

In addition, he awarded €50,436, representing half of the loss of rental income of the family home. He also awarded general damages amounting to €44,975.79.

Mr Davoren was transferred to University College Hospital, Galway, in July 2003.

Mrs Davoren had alleged that her husband was treated with medication by Dr Lee for a period even though his condition had deteriorated and it was likely he required urgent surgery.

It was alleged Dr McAnena performed surgery on Mr Davoren on August 21, 2003, after it had been noted the patient was not making progress. It was alleged Mr Davoren's condition deteriorated and an emergency laparotomy was performed on August 29.

Mr Davoren was returned to the ICU, where he was identified as suffering with multi-organ failure. It was alleged that he suffered a cardiac arrest on August 31 and was pronounced dead some hours later.

€1.6m award in negligence case to family of farmer

THE HIGH Court has awarded almost €1.6 million in damages to the widow and family of a farmer who died as a result of negligence in his treatment for colitis at University College Hospital, Galway.

Most of the award arose due to loss of an expected €1.5 million inheritance of the man's mother's farm in circumstances where, after he died, his mother altered a will that initially had left the 623-acre farm to him so as to ultimately leave it to her daughter.

Grace Davoren, a mother of four from The Barn, Ballyalben, Ballyvaughan, Co Clare, had sued the Health Service Executive (Western Area), consultant gastroenterologist John Lee and consultant surgeon Oliver McAnena following the death of her husband Michael (47) on August 31st, 2003.

The defendants did not contest liability in relation to Mr Davoren's treatment.

Ms Davoren had claimed, under Part 4 of the Civil Liability Act, 1961, that as well as being entitled to damages for loss of dependency, she also lost out on the expected €1.5 million inheritance of her husband's family's farm due to his death.

She said her husband was an only son who had worked on the family farm, Ballyalben, all his life and was due to inherit it. The couple also ran their own 269-acre farm, Ballycahill, adjoining the Ballyalben farm.

Following his death, relations between Grace Davoren and her mother-in-law, Maura Davoren, deteriorated and the latter changed her will so that it benefited her grandson, also named Michael.

Maura Davoren subsequently changed the will again and, upon

her death her entire estate, including the Ballyalben farm, passed to her daughter, Mary O'Regan.

Grace Davoren had claimed that if her husband had not died before his mother, the farm would have been left to her family.

In his judgment yesterday, Mr Justice Iarfhlaith O'Neill awarded Ms Davoren and her family €1,591,957.70 in damages after finding he was satisfied Michael Davoren would have inherited the Ballyalben farm if he had not suffered wrongful death.

The judge rejected an argument by the defendants it was probably the falling out between Grace Davoren and her mother-in-law that had caused them to lose out on the inheritance of the estate.

Even if the falling-out was the cause of Maura Davoren changing her will, this was directly due to a change in her state of mind caused by the wrongful death of her son, the judge said.

He was satisfied Michael Davoren's dependants would have inherited the estate of Maura Davoren if it was not for his wrongful death.

He ruled Grace Davoren was entitled to €1,312,275 for the loss of inheritance of the estate of Maura Davoren as well as €184,271 to cover the loss of income from farming the Ballyalben farm following Maura Davoren's death.

He awarded another €50,436, representing half of the loss of rental income of the family home, on the basis the family would have moved into the Ballyalben house after inheriting and rented out their own home.

General damages, including the cost of funeral and other expenses, were assessed at €44,975.79.