

Financial Settlement Following Listowel Wheelie Bin Death

A High Court Judge in Waterford sympathised with the family of a man who died in bizarre circumstances from injuries he sustained when he slept rough in a wheelie bin during the Listowel Races on September 17th and 18th, 2009.

Declan Power (32), of Osbourne Terrace, Bonmahon, County Waterford, climbed into the large wheelie bin to sleep when his bed was unavailable on his return in the early hours to a B & B in the town.

When the bin was collected next day his body was found in the South West Bins Company recycling depot in Kilmora, Listowel. He died as a result of injuries sustained in the waste disposal truck.

Judge Findlay Geoghegan approved a settlement of €110,000 in an action for damages by the dead man's mother, Mary Ann Power.

Barrister Liam Reidy SC, on behalf of the plaintiff, said the full value of this very tragic case was perhaps €500,000 but he took a pessimistic view on the issue of liability and was recommending the settlement of €110,000.

The deceased went to Listowel with a number of friends and there was a great deal of celebration and one of his friends booked a room in a B&B. But they got separated during the night and eventually when he made his way back to his room he found another person in his bed.

He left his lodgings and was seen by Gardaí on the streets and in their view he was not too intoxicated. During the night he sought shelter in a wheelie bin at the back of a licensed premise.

The parents of the deceased, William and Mary Ann Power, as well as his three brothers and two sisters were disappointed with the offer as they put a much higher value on his life.

The Judge said while it was extremely difficult for the family she had to consider the facts objectively. The money was not compensation and might seem derisory. None of the siblings had a financial loss.

The first issue to decide was whether the court should approve the offer of settlement of €110,000 as William Jnr, the deceased's son, was still a minor and his claim formed part of the claim brought by his grandmother on behalf of dependents and next-of-kin. The €110,000 was in the order of zero to 25 per cent of full value of the claim.

The court had to decide in the interests of William Jnr that it should approve of the offer. It was a significant sum of money, much of which would be available to William Jnr and his mother.

There was a significant risk that the plaintiff might not succeed in the action and there would be a considerable reduction in damages.

The defendants had pleaded that Declan was guilty of contributory negligence by the fact that he got into the bin and slept. While there was an argument on liability it could not be assured that the action would succeed and there was a risk of a reduction of 50 per cent or even greater.

The Judge apportioned €10,000 for funeral expenses to Mary Ann Power, €5,000 to each parent and €1,000 to each of his siblings.

The remaining €85,000 was paid entirely to Ms Roche, his fiancée, on the undertaking that €20,000 went to William Jnr to be used for his benefit and education over the next number of years and to buy something for the infant, such as Post Office Savings Certificates to remind him of his father when he was 18 years of age.