

Has the Supreme Court's Decision in Illott v Mitson changed the face of Inheritance Act Claims?

The Supreme Court has yesterday unanimously allowed the appeal which was brought by three charities and reduced the Claimants award to £50,000 from an estate worth £486,000.

The Claimant, Ms Illott, had no connection to her mother during her lifetime, which resulted in her mother leaving the entirety of her estate to three charities. The Claimant issued a claim under the Inheritance (Provision for Family and Dependents) Act 1975 for reasonable financial provision and was initially awarded £50,000 which she appealed on the basis that she had not been awarded enough from the estate. The appeal was upheld by the Court of Appeal in 2015 and Ms Illott was awarded £163,000. The charities appealed this decision to the Supreme Court who have ruled that the original award of £50,000 was correct.

This case is historic in so far as no claim under the Act has previously reached the Supreme Court. The Judgement makes it clear that the current law in terms of claims by adult children is unsatisfactory as there is no clear guidance as to the factors which should be taken into account, or the likely order which will be made, given the wide range of orders which can be made by the Court.

The Judgement clarifies that when determining what is reasonable for the child's maintenance (being the test for a claim brought by a child), a life interest is likely to be sufficient, rather than the provision of capital.

The judgement goes on to clarify items which would be considered as falling within the test of what is required for a child's maintenance, and extends to maintaining the home, a reliable car and a holiday.

Finally, the Court has confirmed that any benefits which are being received by a Claimant should be considered as their resources and that when considering the claim, the Court must consider whether they will continue to be received after an award has been made.

In reality, although the case has attracted a great deal of press, it has not altered the way in which claims such as these will be dealt with, as all claims for reasonable financial provision are dealt with on a case by case basis and on their facts. The case does however provide useful guidance as to the factors which will be considered by the Court when making its decision.



If you have any queries in respect of a potential claim against the estate of a family member, please contact Laura Alliss on 01792 65 00 00.

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