

STATE OF MAINE

KENNEBEC, ss.

SUPERIOR COURT

CIVIL ACTION

DOCKET NO. CV-00-219

SKS-KEN-2/26/2002

LORRAINE SHAW,
as Personal Representative
of the Estate of Hannah
Smith,

Plaintiff

v.

JUDGMENT

THOMAS WARE,

Defendant

DONALD L. GARSBECHT
LAW LIBRARY

APR 3

This matter was tried to the court without a jury on the limited issue of damages to be awarded to the plaintiff. The parties stipulated that the defendant caused the death of Hannah Smith as a result of the defendant's negligent operation of a motor vehicle. The defendant also does not contest damages in the amount of \$5,511 for Ms. Smith's burial expenses. The remaining issue is whether, pursuant to 18-A M.R.S.A. § 2-804(b), there is a blood relative of Ms. Smith who has suffered a loss of comfort, society, and companionship as the result of her wrongful death and the amount to be awarded as a result of that loss.

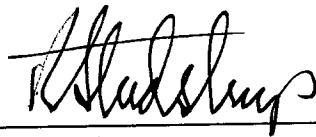
Hannah Smith had four siblings. Only one of the siblings, Rusty Smith, had any sort of relationship with Hannah that would justify a claim under the statute. The family was separated early in the siblings' lives and there was little subsequent contact. Of his four sisters, Rusty Smith appears to have been closest to Hannah, though even this relationship was not extremely close. Some loss of comfort,

society, and companionship has been proven by a preponderance of the evidence, but not to a degree that would support a large damage award. After weighing all of the testimony and other factors, the court finds that the damages due to this loss are in the amount of \$5,000.

The entry will be:

Judgment for the plaintiff against the defendant in the amount of \$10,511, plus costs and interest.

Dated: February 26, 2002



S. Kirk Studstrup
Justice, Superior Court

Date Filed 10/11/00 Kennebec County Docket No. CV00-219

Action Auto Negligence

J. STUDSTRUP

Lorraine Shaw, P.R. of Estate of vs. Thomas Ware

Plaintiff's Attorney Hannah Smith
 Walter McKee, Esq.
 227 Water Street
 P.O. Box 1051
 Augusta, Maine 04332-0151

Defendant's Attorney
 Jared s. des Rosiers, Esq.
 One Monument Square
 Portland ME 04101-1110

Date of Entry	
10/12/00	Complaint, filed. s/McKee, Esq. (filed 10/11/00) Case File Notice mailed to atty.
10/23/00	Copy of Summons with return service made upon Thomas Ware, filed.
10/23/00	Original Summons with return of service on Thomas Ware on 10/13/00.
10/30/00	Defendant, Thomas Ware's Answer to Complaint and Notification of Discovery Service of Defendant's First Request for Production of Documents Propounded to Plaintiff; Subpoena for Documents to Lowell Smith, Eunice Smith and Rose Smith served on Walter McKee, Esq. on 10/27/00 by Jared S. des Rosiers, Esq. Attorney for Defendant, filed. s/des Rosiers.
10/31/00	SCHEDULING ORDER, Studstrup, J. "Scheduling Order filed. Discovery deadline is July 1, 2001." Copies mailed to attys of record.
11/2/00	Notification of Discovery Service of Plaintiff's Objections to Defendant's First Request for Production of Documents served on Jared des Rosiers, Esq. on 10/31/00 by Walter McKee, Esq., filed. s/McKee, Esq.
11/17/00	Notification of Discovery Service of Plaintiff's Response to Defendant's Request for Production of Documents served on Jared S. des Rosiers, on 11/15/00 by W. McKee, Esq., filed. s/W. McKee, Esq.
2/5/01	Notification of Discovery Service of Notice to Take Oral Depositions of Lorraine Shaw; Eunice Smith; Rose Smith and Lowell Smith served on Walter McKee, Esq. on 2/1/01, filed. s/J. des Rosiers, Esq.
3/12/01	Notification of Discovery Service, filed. s/Rosiers, Esq. (filed 3/8/01) Amended Notice to Take Oral Deposition of Lorraine Shaw; Amended Notice to Take Oral Deposition of Enice Smith; Amended Notice to Take Oral Deposition of Rose Smith and Amended Notice to Take Oral Deposition of Lowell Smith served on Walter F. McKee, Esq. on 3/7/01