in any case the Chancellor erred in assessing the damages on the basis of a five years' expectation of life and in allowing the sum of the allowance for five years instead of the capitalized value of it.

It is clear, I think, that the first of these contentions is not maintainable. Upon the evidence the proper conclusion is that there was a reasonable expectation that the whole of the estate of the deceased would go to his children at his death and it would therefore be improper, for the purpose of ascertaining their pecuniary loss, to treat the children as being benefited by his premature death to the extent of the value of the estate. They benefited owing to his premature death only by the enjoyment of the estate being accelerated, and had it not been found upon the evidence that there was a reasonable probability that the whole of the income of his estate would have been saved by the deceased and have passed to his children at his death, the second contention would have been entitled to prevail; but that finding is a complete answer to it.

That the Chancellor was right in order to arrive at a conclusion as to the probable duration of the life of the deceased in taking into consideration the fact that his life was an unusually healthy one and on that account in finding the probable duration of it to be greater than that of the average life is, I think, clear upon principle, and if authority for the proposition is needed, it will be found in *Rowley* v. *London & Northwestern Rw. Co.* (1873), L. R. 8 Ex. 221, 226.

For these reasons, we are of opinion that the judgment is right, except as to the computation of the damages. The pecuniary loss to the children on the hypothesis on which the Chancellor proceeded was not the sum of the allowance for five years but the present value of the five yearly payments which, capitalizing them at five per cent. per annum, amounts to $1,428.73.

The judgment should therefore be varied by reducing the damages to that sum and with that variation should be affirmed and the appeal be dismissed.

As success is divided, there will be no costs on appeal to either party.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE HODGINS, agreed.