

Smith, a medical witness who was well acquainted with the deceased and had been his physician for several years, his physical condition was such that he "might easily have been expected to live for ten years."

The Chancellor came to the conclusion that the reasonable expectation of life of the deceased was five years; and, being of opinion that, upon the evidence, there was a reasonable expectation that what the deceased, if he had lived, would have received from the Superannuation Fund would have been saved by him and have passed at his death to his children, he assessed the damages on that basis, allowing as the pecuniary loss sustained by the children five of the yearly payments of the superannuation allowance.

In support of the appeal it was contended, first, that the children of the deceased had sustained no pecuniary loss by his premature death, because his whole estate passed to them at his decease, and they had thus been pecuniarily benefited by it; second, that at all events they had benefited by the accelerated enjoyment of his estate more than they had lost by the superannuation allowance having ceased; and third, that 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