

# The Ontario Weekly Notes

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## HIGH COURT DIVISION.

LENNOX, J., IN CHAMBERS.

JULY 20TH, 1915.

RE CLARKE.

*Insurance—Life Insurance—Benevolent Society—Moneys Payable to Widow by Rules of Society—Preferred Beneficiary—Trust—Insurance Act, R.S.O. 1914 ch. 183, secs. 171 (3), 178 (2), 179 (1)—Effect of Will of Deceased—Costs.*

Motion by the widow of John James Clarke, deceased, for an order for payment out of Court to her of a sum of about \$1,600 paid in by the Toronto Police Benefit Fund, a benefit society.

The deceased was, at the time of his death, a member of the Toronto police force, and the money was the "death benefit" payable at his decease. The money was claimed by the widow and also by the executor of the deceased.

W. D. Gwynne, for the widow.

S. J. Arnott, for the executor.

F. W. Harcourt, K.C., Official Guardian, representing the infant child of the deceased.

LENNOX, J., referred to art. 27 of the rules and regulations of the society, published in 1910, which makes the benefit payable to the widow, unless otherwise directed by the deceased. Previous rules also made the widow the primarily preferred beneficiary. The moneys were to be regarded as insurance moneys and subject to the provisions of the Ontario Insurance Act, R.S.O. 1914 ch. 183.

Reference was made to *Gillie v. Young* (1901), 1 O.L.R. 368. and *In re Cochrane* (1908), 16 O.L.R. 328.

It was contended that the deceased had "otherwise directed" by his will, whereby he bequeathed \$100 to his wife, \$100 to