

IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

A.398/83

865

IN THE MATTER of the Family Protec-
tion Act 1955

BETWEEN THE NEW ZEALAND GUARDIAN
TRUST COMPANY LIMITED as
Trustee and Executor in
the Estate of G
NEWLOVE Deceased on
behalf of T
NEWLOVE of Christchurch,
Infant

Plaintiff

A N D THE NEW ZEALAND GUARDIAN
TRUST COMPANY LIMITED as
Executor and Trustee in
the estate of G
NEWLOVE Deceased

Defendant

Hearing: 11 June 1984

Counsel:

ORAL JUDGMENT OF ROPER J.

This is an application under the Family Protection Act 1955 brought by the New Zealand Guardian Trust on behalf of an infant child of the deceased, G Newlove, who died on the as the result of an accident at the age of The testator had not married but T , who was born in 1982, was the child of a Miss Laurie with whom the testator had been living and whom he planned to marry.

The testator left a nett estate of approximately \$55,000, of which \$50,000 is in cash, being the proceeds from an insurance policy. It is obvious that the testator owed

T a moral duty to make provision for her and that, to their credit, is accepted by all of the beneficiaries under the testator's will. By his last will made on the 16th November 1977 he left the whole of his estate to his parents and brothers and sisters in certain shares. Of those brothers and sisters one, R is very much younger than the others, being only 7, and I agree with counsel that it is appropriate that R interest under the will, having regard for his age, should be preserved. It has been suggested that the payment to R of \$3,000 will have that effect, and it has been further submitted that all the other beneficiaries, including each of the parents, should receive the sum of \$1,000, it being the testator's wish that his parents and brothers and sisters should benefit.

I am satisfied that that would be a just result and I therefore order that R is to be paid the sum of \$3,000, and all other beneficiaries, including each parent, are to be paid the sum of \$1,000 with the balance to be held on trust for T. There was no challenge to the gift to R of the testator's stereo cassette player which was given to him under the will.

I require a draft order to be filed to give effect to that order.

