

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

RECUEIL DES SENTENCES ARBITRALES

Thomas C. Miller and Others (United States) v. Germany

19 September 1924

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perished with him on the *Lusitania*, there is no room for doubt that *if he had survived*," he, being then without wife or children, would have been generous in his contributions to them. It is not suggested that either would have made contributions to the members of the respective families had both continued to live.

The speculative nature of these contentions is obvious. They furnish no sound basis on which to rest an award.

As heretofore pointed out, the awards which this Commission is empowered to make in death cases have for their basis not the value of a life but the losses sustained by the claimants resulting from a death, in so far only as such losses are susceptible of measurement by pecuniary standards. The records in these cases indicate that Mr. and Mrs. Shields maintained their own domestic establishment, separate and apart from both his and her relatives, all of whom were independent of them.

No claim is made in either case for property lost.

Applying the rules announced in the *Lusitania* Opinion to the facts as disclosed by the records, the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is not obligated to pay to the Government of the United States any amount on behalf of the claimants herein.

Done at Washington February 21, 1924.

Edwin B. PARKER
Umpire

THOMAS C. MILLER AND OTHERS (UNITED STATES)
v. GERMANY

(September 19, 1924, pp. 425-427.)

DAMAGES IN DEATH CASES: ANTICIPATED FINANCIAL CONTRIBUTIONS, PERSONAL PROPERTY. Claim for loss suffered by parents of *Lusitania* victim. Application of principles and rules announced in Commission's decisions. Damages allowed for anticipated contributions to maintenance of parents, and for personal property lost.

PARKER, *Umpire*, rendered the decision of the Commission.

This case is before the Umpire for decision on a certificate of the two National Commissioners^a certifying their disagreement. A brief statement of the facts as disclosed by the record follows:

James B. Miller, an American national, was a passenger on and went down with the *Lusitania*. At that time he was 31½ years of age, unmarried and left no issue. His father, Thomas C. Miller, then 59½ years of age, his mother, Emma J. Miller, then 55 years of age, a married sister, Adena Miller Rich, and a brother, Thomas C. Miller, Jr., all of whom were born and have ever remained American nationals, survived him. The deceased had contributed to the education of his sister and younger brother, but at the time of his death they were not dependent on him and he was making no contributions to them. No claim is made on their behalf. The father of deceased has long been and still is an honored member of the bar of Erie, Pennsylvania.

At the time of his death Captain Miller was in the service of the United States Department of Commerce as Assistant in the Coast and Geodetic

^a Dated February 14, 1924.

Survey receiving a salary of \$2,000 per annum plus an allowance of \$2.50 per day in lieu of subsistence while on active field duty. He had a most enviable record, had been especially commended by the Secretary of Commerce for distinguished services, was strong, active, and ambitious, and his prospects for advancement were bright. At the time of his death he was en route to Glasgow, Scotland, to take up advanced study in the University of Glasgow in furtherance of his life's work.

While at the time of his death the deceased was not contributing to the support of his parents, the record affirmatively indicates that he was definitely planning to care for them in their old age and equipping himself to that end. His brother and sister, both married, with others dependent on them, were not and are not in a position to care for their parents, now advanced in years. That a great loss was sustained in the death of James B. Miller there can be no doubt. While the evidence of pecuniary loss cognizable under the law is somewhat meager, the facts stated and the justifiable inferences therefrom support a substantial award.

The deceased had with him personal property of the value of \$3,650 which was lost.

Applying the principles and rules heretofore announced in the decisions of this Commission to the facts as disclosed by the record, the Commission decrees that under the Treaty of Berlin of August 25, 1921, and in accordance with its terms the Government of Germany is obligated to pay to the Government of the United States on behalf of (1) Thomas C. Miller and Emma J. Miller, his wife, jointly, the sum of fifteen thousand dollars (\$15,000.00) with interest thereon at the rate of five per cent per annum from November 1, 1923, and (2) Thomas C. Miller as Administrator of the Estate of James B. Miller, deceased, the sum of three thousand six hundred fifty dollars (\$3,650.00) with interest thereon at the rate of five per cent per annum from May 7, 1915.

Done at Washington September 19, 1924.

Edwin B. PARKER
Umpire

GLADYS BILICKE (UNITED STATES)
v. GERMANY

GLADYS BILICKE, INDIVIDUALLY AND AS GUARDIAN OF THE
ESTATE OF CARL ARCHIBALD BILICKE, AND OTHERS (UNITED
STATES) v. GERMANY

(September 24, 1924, pp. 435-438.)

DAMAGES: PERSONAL INJURIES; IN DEATH CASES: ACTUAL, ANTICIPATED FINANCIAL CONTRIBUTIONS, PERSONAL SERVICES.—EVIDENCE: CERTIFICATE. Claims for losses suffered by wife and children of *Lusitania* victim. Application of rules announced in *Lusitania* Opinion, see p. 32 *supra*, and in other decisions. Evidence: physicians certificate. *Held* that in death cases Commission empowered to make awards for loss of actual or probable contributions, which were fruits of personal efforts of decedent, not for loss of such contributions derived as income from decedent's estate, which on his death vested in claimants and yields to them same income as it yielded to decedent during life. Damages allowed on behalf of (1) claimant