

REPORTS OF INTERNATIONAL ARBITRAL AWARDS

RECUEIL DES SENTENCES ARBITRALES

**Margaret Emerson Baker and Others, and Reginald C. Vanderbilt and Others as
Executors of the Estate of Alfred G. Vanderbilt, Deceased (United States) v.
Germany**

19 March 1925

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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 any of the claimants herein.

Done at Washington March 11, 1925.

Edwin B. PARKER
Umpire

MARGARET EMERSON BAKER AND OTHERS, AND REGINALD C.
VANDERBILT AND OTHERS AS EXECUTORS OF THE ESTATE OF
ALFRED G. VANDERBILT, DECEASED (UNITED STATES)

v. GERMANY

(March 19, 1925, pp. 593-595.)

DAMAGES IN DEATH CASES: VALUE OF LIFE LOST, LOSS TO SURVIVORS; ACTUAL FINANCIAL CONTRIBUTIONS, DECEDENT'S PRODUCING POWER. Claims for alleged losses suffered by widow and children of *Lusitania* victim. Application of rules announced in *Lusitania* Opinion, see p. 32 *supra*, and in other decisions. Held that, since no evidence offered of producing power of decedent, and pecuniary returns to widow and children from his bequests to them are greater than contributions received from him during his life, no damages can be allowed: measure of awards is not value of life lost, but losses to claimants.

Bibliography: Kiesselbach, *Probleme*, p. 63.

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

This case has been certified by the two National Commissioners^a to the Umpire for decision.

Alfred Gwynne Vanderbilt, an American national, 37 years of age, was lost with the *Lusitania*. He was survived by his wife, Margaret Emerson Vanderbilt, then 33 years of age, two sons, issue of their marriage, Alfred G., Jr., then two years seven months old, and George, then seven months old, and also by a son by a former marriage, William Henry, then 13 years of age, all American nationals. The claim put forward on behalf of the widow is in the name of Margaret Emerson Baker, she having married Raymond T. Baker, an American national, June 12, 1918.

Using as a basis the appraisals made for the purpose of fixing the transfer tax payable to the State of New York, the net value of the decedent's estate, after the payment of all debts and funeral and administration expenses, was \$15,594,836.32. By the terms of decedent's will bequests were made to sundry individuals aggregating \$1,180,098.18 and the balance was bequeathed to, or placed in trust for the use and benefit of, the decedent's widow and his three sons, all claimants herein. During his life Mr. Vanderbilt maintained for himself, wife, and children several country places and town residences both in the United States and in England. For their maintenance and for the support and comfort of his wife and children he expended and contributed approximately \$300,000 annually, or about two per cent of the amounts bequeathed to them and for their use and benefit.

The producing power, if any, of the decedent is not disclosed by the record. No evidence is offered of his having had any income other than the fruits of

^a In a certificate dated December 22, 1924.

the property disposed of by his will. Obviously the pecuniary returns to his widow and children from his bequests to them were greater than the contributions which they received from him during his life for their support and maintenance, which were made from the income from his estate the corpus of which on his death vested in them or for their use and benefit.

No claim is put forward on behalf of the executors of the decedent's estate for personal effects and other property belonging to and lost with him, nor is claim made for any expenses incurred by the estate resulting from his death.

Bearing in mind that the measure of the awards which this Commission is empowered to make in this case is not the value of the life lost but the losses *to claimants* resulting from the decedent's death, so far only as such losses are susceptible of being measured by pecuniary standards, and applying the rules announced in the *Lusitania* Opinion and in the other decisions of this Commission to the facts in this case, 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 or any of them.

Done at Washington March 19, 1925.

Edwin B. PARKER
Umpire

CAROLINE M. BRIDGE AND EDGAR G. BARRATT,
ADMINISTRATORS OF THE ESTATE OF JUSTUS MILES FORMAN,
ET AL. (UNITED STATES) *v.* GERMANY

(*March 19, 1925, pp. 595-597.*)

DAMAGES IN DEATH CASES: VALUE OF LIFE LOST, LOSS TO DECEDENT'S ESTATE, LOSS TO SURVIVORS; ACTUAL FINANCIAL CONTRIBUTIONS.—EVIDENCE: UNSUPPORTED ALLEGATION, CLAIMANTS' TESTIMONY. Claims for alleged losses suffered by relatives of *Lusitania* victim. Application of rules announced in *Lusitania* Opinion. see p. 32 *supra*, and in other decisions. *Held* that awards which Commission is empowered to make in death cases are not value of life lost (benefits of which decedent's estate was deprived), but losses to claimants themselves resulting from death, so far as susceptible being measured by pecuniary standards (see Administrative Decision No. VI, p. 155 *supra*). *Held* also that unsupported allegation by administrator of estate that decedent made money contributions to several claimants cannot be accepted as sufficient evidence, since claimants failed to offer personal testimony, though facts manifestly within their knowledge. No damages allowed.

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.

Justus Miles Forman, an American national, 39 years of age, was a passenger on and went down with the *Lusitania*. While the record does not so expressly state, the inference is that he had never married. He was a man of culture and ability, a prolific writer of popular fiction and a playwright. His income from these sources was between \$10,000 and \$12,000 per annum.

^a Dated January 5, 1925.