

ESTIMATION OF THE MONETARY DAMAGE ARISING FROM LOSS OF A NON-GAINFULLY EMPLOYED HOUSEWIFE

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Few would deny in 1968 that the loss of either the husband or wife in a family unit constitutes a serious economic loss to the entire unit. Nor would it be seriously contended that the loss of the father, the breadwinner, could not be measured in terms of his expected cash contribution to the household for the number of years he would reasonably have been expected to live. But the measurement of the economic impact on the family unit stemming from the loss of the housewife who had not been gainfully employed has taxed the brains of jurists since the wrongful death action was first created under Lord Campbell's Act in 1846.¹

The traditional method employed in Georgia courts to measure the value of the housewife to her family is outlined in *Standard Oil Co. v. Reagan*.² There the husband was allowed to recover a jury verdict of \$10,000 based on testimony as to the market wages being paid at that time for the services which his deceased spouse performed around the home, such as nursing, cooking, housekeeping and sewing. Both in that case and subsequently, however, defendant-tortfeasors have argued that the monetary pecuniary value of the wife thus determined was at best a guess and at worst a misrepresentation.

In the recent case of *Har-Pen Truck Lines v. Mills*,³ a new type of evidence as to the value of a deceased housewife was accepted by a judge of the United States District Court for the Middle District of Georgia exercising diversity jurisdiction in a Georgia wrongful death case. This method was described by Circuit Judge Goldberg on appeal as "[a] more modern and scientific version of that accepted in *Standard Oil Co. v. Reagan*,"⁴ and "more reliable than the jury's unbounded musings of yesteryears."⁵

The purpose of this writing is to explain briefly in non-technical terms the analytical criteria used by the expert witness, co-author Pyun, in *Har-Pen Truck Lines*.⁶

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1. Fatal Accidents Act of 1846, 9 and 10 Vict., c. 93.

2. 15 Ga. App. 571, 84 S.E. 69 (1915).

3. 378 F.2d 705 (5th Cir. 1967).

4. *Id.* at 711.

5. *Id.* at 711-712.

6. See Pyun, *The Monetary Value of a Housewife: An Economic Analysis for Judicial Decisions*, to be published in AM. J. ECON. & SOCIO., Oct., 1968, for technical exposition.

MONEY INCOME AND UTILITY INCOME

In a broad conceptual sense, the welfare position of a household can be measured by two facets of the economic yardstick; one, welfare position measured by the family's "money income" position, and the other measured by the family's "utility income" position. The former is determined by adding up the cash contributions of the various members of the family unit. The latter in its essential form is the traditionally accepted valuation in courts: the cash contribution of the father-breadwinner and the "replacement cost" of the wife in terms of the market value of services she performs around the home.

The "money income" position of the family where the wife is employed outside the home is relatively easy to calculate. One has only to add the cash incomes of the father and mother within a unit of time. But where the wife is not gainfully employed, and has not been recently employed, the task is more difficult. Her "cash" contribution to the family must be statistically estimated as a hypothetical case, assuming that she was in the job market. In order to approximate this figure, the economist should consider the wife's educational background, her skill areas if any and the job market conditions in the locality where she lives. From these factors the economist may select a sample list of occupations at which the wife of certain education and demonstrated talent might have worked. In the *Har-Pen* case, 24 possible occupations for the wife were selected as a factual premise for the hypothetical case and from these five jobs were taken at random, the annual incomes of which were then averaged to determine the wife's expected earning power. The entire procedure was based on accepted statistical methods with a probable margin of error properly controlled for the desired statistical reliability. This figure was then added to the husband's actual cash contribution to the family unit to derive the "money income" position.

The "utility income" position, as was mentioned above, is derived by adding the services performed by the husband (usually only his actual cash income) to the cash value of the services performed by the wife. The value of the wife's services is reached by considering the going market wage for the various chores she performs, as was done in the *Standard Oil* case. What Georgia courts have been doing, then, is computing the "utility income" position of the family unit, or the "utility" contribution of the wife, as the case might be.

THE INDIFFERENCE CURVE

Having estimated the utility and money income positions of the family unit, the economist's remaining step is to reconcile these figures. The theoretical model used in this reconciliation is the "indifference curve," which is technical and which cannot be fully explained within the confines

of this article.⁷ It is, however, a well-known analytical tool among economists. The result, the economic position of the family, is then reduced by the contribution of the father-husband, to get the economic impact of the loss of the wife. This figure is then multiplied by life expectancy and adjusted to present value by conventional methods.

The fact that this method is "more scientific," in the words of Judge Goldberg, is important. But being more scientific is not an end in itself. The primary advantage to this method is that it takes into consideration the individual characteristics of the deceased, instead of measuring her value on the basis of the market wages of common laborers and semi-skilled workers in the area where she lived. An additional advantage, perhaps reflected by the \$100,000 verdict in the *Har-Pen* case, is that the "more scientific" method is more easily accepted and more convincing to a jury, the ultimate judge of the value of the housewife.

7. In a nutshell, an indifference curve is a graphical illustration of an indifference schedule which shows a list of combinations of two commodities (or services), x and y . The list is so arranged that an individual consumer is indifferent to the combinations because they all yield the same satisfaction to him. In the present case, by applying the indifference curve, it is assumed that the household which lost the services of a housewife is indifferent to the two sources of the services, i.e., those services provided by the housewife herself and those services provided by a substitute mother. The indifference curve approach was used primarily as an analytical device showing changes of the set of variables used in estimating the monetary value of a housewife. For a more detailed exposition on the indifference technique, see R. LEFTWICH, *THE PRICE SYSTEM AND RESOURCE ALLOCATION*, ch. 5 (ed. 1966); H. LIEBHAFSKY, *THE NATURE OF PRICE THEORY*, ch. 5 (1963); D. WATSON, *PRICE THEORY AND ITS USES*, ch. 6 (1963).