

CITATION: Carrigan v. Carrigan Estate, 2012 ONCA 823
DATE: 20121127
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COURT OF APPEAL FOR ONTARIO

Juriansz, LaForme and Epstein JJ.A.

BETWEEN:

Mary Melodee Dianne Carrigan

Plaintiff (Appellant)

and

Melodee Carrigan, in her capacity as Executrix and Trustee of the Estate of
Ronald Leo Anthony Carrigan, deceased, William Smith, alternate Executor and
Trustee of the Estate of Ronald Leo Anthony Carrigan, deceased and Jennifer
Margaret Quinn

Defendants (Respondents)

Rodney Godard and Daniel Ableser, for the appellant

R.G. Colautti and Kathleen Montello, for the respondent Jennifer Quinn

Heard: April 16, 2012

On appeal from the judgment of Justice Mary J. Nolan of the Superior Court of
Justice, dated January 24, 2011, with reasons reported at 2011 ONSC 585.

ADDENDUM

[1] On October 31, 2012, this court rendered its decision in this appeal. The majority of the court allowed the appeal and held that the appellant and her two daughters were entitled to the statutory pre-retirement death benefit as the

designated beneficiaries under s. 48(6) of the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (“PBA”). The majority reversed the decision of the trial judge, who had decided the respondent was entitled to the pre-retirement death benefit as the spouse under s. 48(1).

[2] Following the release of the court’s decision, counsel for the respondent requested that this court address the issue of the respondent’s entitlement to support under the *Succession Law Reform Act*, R.S.O. 1990, c. S.26 (“SLRA”).

[3] The respondent’s application before the Superior Court of Justice included a claim for support under the SLRA. The trial judge, having awarded the pre-retirement death benefit to the respondent, found she had no need for further support payments under the SLRA. Accordingly, she dismissed the respondent’s SLRA application.

[4] The issue of support payments under the SLRA was not raised on appeal and this court did not address it in its reasons. However, given that this court’s decision removes the basis on which the trial judge dismissed the respondent’s SLRA application, the order of the trial judge dismissing the respondent’s SLRA application is set aside and that application is remitted to the Superior Court of Justice. All questions related to that application, including interim support, are to be determined by the Superior Court.

“R.G. Juriansz J.A.”
“H.S. LaForme J.A.”
“Gloria J. Epstein J.A.”