

FOR THOSE WITH SUPERANNUATION

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In the recent Federal Court case of *Edwards v Post Super Pty Ltd [2006] FCA 1380*, the Federal Court was asked to consider who would receive over \$200,000 of a young man's superannuation.

A young 25 year old postal worker died in a motor vehicle accident. As a postal worker, he was a member of the Australia Post Superannuation Scheme. He was entitled to a Death Benefit on his death of \$221,509.65.

The Trustee of the Superannuation Fund was required by law to pay the money to a dependant or a number of dependants of the postal worker.

His parents, his young daughter and a lady claiming to be his defacto claimed to be the postal worker's dependants and entitled to the money.

There was no available evidence that could show what the postal worker's intentions were (there was no Will and there was no nomination form completed by the postal worker for his Superannuation Fund).

The Superannuation Trustee, then the Superannuation Complaints Tribunal and finally the Federal Court was asked to decide (among other things) who ought to be the recipient of the money.

Before the lady claiming to be the man's de facto could receive anything, she needed to show that she was in fact the man's de facto and dependant.

The Superannuation Trustee decided she was his de facto and decided to pay 75% of the money to her. The balance was paid to the postal worker's daughter.

The postal worker's parents appealed to the Superannuation Complaints Tribunal and then the Federal Court claiming she was not in fact his de facto or dependant and that the money should not have been paid to her.

It would have been of great assistance in this case if the young man had made it clear what his intention was with regard to his Superannuation money. For example, whether he wanted it all to go to his young daughter.

At his age he probably did not consider death a possibility which he needed to consider. He was also probably not aware of his entitlement on death to over \$200,000 from his Superannuation Fund.

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This case is an important reminder for any person with Superannuation to decide what is to happen to the Superannuation and to seek appropriate advice about the Superannuation. Advice should be obtained from a Financial Planner and a Lawyer before making a decision about what to do with your Superannuation. There are taxation, succession planning and other issues to consider when making an important decision about your Superannuation.

This is general information only, and does not constitute specific legal advice. If you would like further information in relation to Commercial Litigation or any other matters, or if we can assist you, please email us at reception@hhg.com.au.

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