
Earnings—Reasonable expenses incurred in connection with employment

A woman in receipt of widowed mother's allowance was part-owner of a business, in which she worked and from which she received £7 15s. (gross) a week. She claimed to deduct from her earnings a sum of £3 18s. 11d. as the total cost of employing a woman who was employed to look after her child during her own working hours.

Held that the permissible deduction from her earnings for this purpose must be limited to what was reasonable in the light of her earnings regardless of her other resources; the expense and the earnings are directly related; a proportion of the expense amounting to 33s. 11d. (which included the national insurance contribution payable by claimant in respect of the woman) was reasonable.

1. My decision is that the claimant's widowed mother's allowance fell to be reduced to 10s. 6d. a week by reason of her earnings from the 19th October, 1954 to the 6th December, 1954 both dates included.

2. The claimant was awarded a widowed mother's allowance at the rate of 43s. a week from and including the 19th October, 1954 subject to reduction on account of earnings.

3. Before the allowance was put into payment inquiry was made as to her earnings and it was ascertained that she was part-owner of a firm of automobile engineers in which she worked and received the sum of £7 15s. 0d. a week.

4. By reason of the provisions of the National Insurance Act, 1946 Section 17(3), as amended by the National Insurance Act, 1951 Section 2(3) and the Family Allowances and National Insurance Act, 1952 Section 6 and Schedule V, where the claimant's earnings have exceeded 60s. for the week preceding any week for which she is entitled to a widowed mother's allowance, the weekly rate of that allowance for that week has to be reduced by one shilling for each complete shilling of the excess, provided that the total amount of such reduction is not to exceed 32s. 6d., leaving an allowance of 10s. 6d. a week payable to the claimant in any event.

5. The claimant has claimed, however, that in ascertaining her earnings for this purpose she is entitled to deduct certain expenses from the gross figure of £7 15s. 0d. a week.

6. It appears that 9s. a week is deducted for income tax under P.A.Y.E. arrangements; that is admittedly an allowable deduction. It further appears that the cost of travelling to and from work is 4s. 6d. a week; that again is admittedly an allowable deduction. At one time the claimant claimed that she was entitled to deduct 6s. 2d. a week in respect of national insurance contributions paid by her as a self-employed person but it has now been ascertained that she has not paid, and is not paying, national insurance contributions in respect of herself and, accordingly, no reduction can be made on that account. Finally, the claimant has claimed that she is entitled to deduct her cost of employing a woman whom she employs to look after her child during her working hours. She pays the woman in question £3 a week and has to pay 3s. 11d. a week as her share of the woman's national insurance contribution. She also provides the woman with meals during her hours at work and she has estimated the cost of those meals at 15s. a week (an estimate which has been accepted as fair by the insurance officer now concerned with this case); in other words she claims to be entitled to deduct £3 18s. 11d. a week in respect of the employment of this woman. The claimant employs her during her child's school terms from 11 a.m. to 5.30 p.m. on weekdays and from 9 a.m. to 2.0 p.m. on Saturdays and during the holidays for the same hours, except that the starting time is 9 a.m., instead of 11 a.m. The weekly remuneration is the same throughout the year. During school terms the child has already left the house before the woman arrives, but returns for the midday meal, as does the claimant herself. The woman employed prepares the meal and does general housework. After returning to school in the afternoon the child comes home from school about 4 p.m., whereas the claimant does not return until 5.30 p.m. normally (or sometimes as late as 6.30 p.m.). The woman employed meets the child at the bus on her return from school in the afternoons and stays with the child and looks after her until the claimant returns. The woman washes and irons the child's clothes.

7. The claimant contended, and the local tribunal agreed, that the whole of the cost of employing this woman, namely £3 18s. 11d. a week, should be treated as "reasonable expenses . . . incurred by the" claimant "in connection with" her "employment" within the meaning of Regulation

4(1)(a) of the National Insurance (General Benefit) Regulations, 1948 [S.I. 1948 No. 1278], as amended by the National Insurance (General Benefit) Amendment Regulations, 1949 [S.I. 1949 No. 1984]. The argument was that, although the woman in question performed many services other than looking after the child, it was not likely that the claimant could find anyone to carry out such duties satisfactorily, except by full-time employment of this character.

8. It seems to me, however, that the cost of such full-time services is far removed from what could be regarded as a reasonable expense incurred by the claimant in connection with her employment. The reasonable cost of arranging for a child to be looked after during a claimant's absence at work has been accepted by the Commissioner to be a reasonable expense incurred by her in connection with her employment. (Compare Decisions C.G.114/49 (reported), R(G)9/51, and R(G)7/52.) The permissible deduction must, however, be limited to the reasonable cost, and in judging what is reasonable in any particular case regard must be had, as it seems to me, to the claimant's earnings. The expense and the earnings are directly related and, if by reason of a claimant's other sources of income she is able to regard as reasonable an expense which a person whose income was limited to her earnings would not regard as reasonable for the purpose for which it is incurred, the expense so incurred is not a "reasonable expense" for the purposes of Regulation 4(1)(a) referred to above, in so far as it exceeds the expense which a reasonable person whose income was limited to her earnings would incur for that purpose.

9. A reasonable person earning no more than £7 15s. 0d. a week would not incur an expense of £3 18s. 11d. a week for the purpose of having her child looked after during her absence at work. If, therefore, a claimant by reason of other resources prefers to solve the problem of having her child looked after during her absence at work in a manner which she could not afford but for those resources and by doing so in that manner derives certain incidental advantages, only that part of the cost can, in my view, properly be spoken of as reasonably incurred in connection with her employment which does not exceed a reasonable sum for a person, whose income was limited to her earnings, to expend on having her child looked after during her absence at work, having regard to those earnings. The claimant, by adopting the means she has adopted, gets the advantage of having her housework done for her and her midday meal prepared and I cannot think that she could not make arrangements for the child to be looked after for very much less money. I appreciate that the claimant prefers that the child should have more home life than she would if she stayed at school for her midday meal or went to some other house for it during the claimant's absence, but if the claimant had to rely on her earnings as her sole source of income, she could not indulge such a preference at such a cost. I agree, however, that a proportion of the expense is properly to be regarded as a reasonable expense incurred by the claimant in connection with her employment and the 30s. a week in addition to the 3s. 11d. a week national insurance contribution payable by the claimant in respect of the woman employed by her, which has been taken by the insurance officer as a reasonable proportion so to regard, is, in my view, a fair estimate of the sum which a woman earning £7 15s. 0d. a week would at most allocate to such a purpose. This would leave a nett sum as the claimant's earnings for the purpose of Section 17(3) referred to above of £5 7s. 7d. a week (£7 15s. 0d. a week, less 9s., less 4s. 6d., less 30s., less 3s. 11d.) that is to say they would exceed 60s. a week by more than 32s. 6d. a week, which is the highest sum which can

R(G) 1/56

be deducted from the claimant's widowed mother's allowance. Even if I had taken £2 a week, instead of 30s. a week, as the reasonable sum to take into account, the claimant's earnings would still have exceeded 60s. a week by more than 32s. 6d. a week. An award to her, therefore, of that allowance at the rate of 10s. 6d. a week appears to me to be correct.

10. I must allow the insurance officer's appeal.
