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Audio

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Gerry Oginski: In a wrongful death case here in New York, does the defense have a legal right to know how much life insurance the person who died had at the time of death? You want to know the answer? Come join me for a moment as I share with you some great information.

 Hi, I'm Gerry Oginski, I'm a New York medical malpractice and personal injury attorney practicing law in the state of New York. The answer is, no, the defense does not have a legal right to know how much life insurance the person who died had at the time of death. You want to know why not? It's because it has nothing to do with the damages that we are claiming the case. The defense is entitled to know how much that person was earning, they are entitled to know what the financial loss to the family was, as a result of this person's death. There's a lot of information that the defense is entitled to learn about from a financial standpoint, but one of the things they are not permitted to know is how much life insurance they had at the time of death.

 Why would they ask that question? They're going to do it for two real reasons. One, they're fishing for information and they're going to try and ask that question during the pre-trial testimony of the person who is bringing the lawsuit, the family member or the spouse, and two, they're going to use it at the time of trial to argue to the jury, "Hey don't blame us, don't force us to pay them all this money. Look at how much money he's getting from life insurance." Guess what, that's an impermissible argument. They will not be allowed to make that argument, they'll get an objection from the attorney, the judge will sustain that objection, which means that they cannot go ahead and use that argument to tell the jury, "Hey, don't blame us, we're not responsible, and we're not responsible for all the money, all the harms and losses, and that person's death," that's an impermissible argument.

 Why then do they keep asking that information in almost every single wrongful death case? They do it for a couple other reasons. One, they do it to push our buttons, they do it to get us aggravated, and number two, they really want to get that information to use during negotiation, to make that argument and say, "Hey, listen, your client's getting all this money. Why should we have to pay some additional money because this person died?" That's a really bad argument to make, especially if they become legally obligated. By law, if a jury finds that they are legally obligated to compensate the family as a result of their loved one's death, now that argument is not very good. Then the defense becomes legally obligated to pay all the harms and losses that the family incurred as a result of this person's death.

 Why do I share this great information with you? I share it with you just to give you an insight and an understanding into how these cases work here in New York. I recognize and I acknowledge you have questions or concerns about your own particular matter. If you're thinking about bringing a lawsuit and your matter did happen here in New York, and you've -got legal questions that need answers, what I invite you to do is pick up the phone and call me. I can answer your legal questions, that's something I do every single day and I'd love to talk to you. You can reach me at 516-487-8207 or by email at Gerry@Oginski-Law.com. That's it for today's video, I'm Gerry Oginski, have a wonderful day.

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