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WINCHESTER, MASTER. NOVEMBER 28TH, 1902.

CHAMBERS.

NOLAN v. OCEAN ACCIDENT AND GUARANTEE
CORPORATION.

*Life Insurance—Action on Policy—Condition as to Arbitration—
Public Policy—Application to Stay Proceedings.*

Motion by defendants for an order staying all proceedings in an action brought by the beneficiary (mother) named in a policy of insurance issued by defendants on the life of the late Dennis Nolan for \$1,000, to recover that sum. The motion was made on the ground that plaintiff was not entitled to maintain the action, inasmuch as there had been no award under condition No. 15 incorporated in the contract upon which the action was brought, and that the provisions of condition 15 had not been complied with. The application was made under R. S. O. ch. 62, sec. 6.

H. Cassels, K.C., for defendants, cited *Guerin v. Manchester Fire Assurance Co.*, 29 S. C. R. 139, and *McInnes v. Western Assurance Co.*, 5 P. R. 242, 30 U. C. R. 580.

S. Alfred Jones, for plaintiff, contended that there was no submission signed by both parties, as required by R. S. O. ch. 62, secs. 2, 6; that the condition ousts the jurisdiction of the Court, and is, therefore, void as contrary to public policy, citing *Caledonian R. W. Co. v. Weenock and W. B. R. W. Co.*, 2 H. L. Sc. 347; *Davies v. Fitzgerald*, 1 Ex. D. 237; *Collins v. Locke*, 4 App. Cas. 674.

THE MASTER held, following *Scott v. Avery*, 5 H. L. Cas. 811, *Edwards v. Aberayson Mutual Sun Ins. Society*, 1 Q. B. D. 563, *Reed v. Washington F. and M. Ins. Co.*, 138 Mass. 572, and cases there cited, that plaintiff was entitled to proceed notwithstanding condition 15.

Motion refused. Costs to plaintiff in the cause.