

effected; and so, if there is nothing apart from contract preventing recovery, plaintiff, as the legal personal representative of deceased, is entitled to recover the sum assured, \$3,000. Plaintiff does not sue in her own right as beneficiary—there seems to be no ground disclosed in the evidence upon which she could so recover—her action is brought and her claim made solely as administratrix of the deceased's estate. It therefore follows that, if the deceased committed suicide whilst sane, she is precluded, at common law, from recovering: see *Amicable Ins. Co. v. Bolland*, 4 Bligh N. R. 194, and *Borrodaile v. Hunter*, 4 M. & G. 639. It is admitted that he committed suicide, but the parties are at issue on the question of insanity—at issue really though the pleadings may not sufficiently indicate it—and that question was not tried owing to the absence of plaintiff's witnesses. The case must, therefore, go down to trial upon that issue, unless the parties can agree as to the fact, or, being unable to so agree, desire that it be found upon a reference instead of a trial.

All questions of costs can better be determined when the rights of the parties are finally determined.

MEREDITH, J.

JANUARY 6TH, 1905.

TRIAL.

MIDDLETON v. COFFEY.

Liquor License Act—Delivery of Intoxicating Liquor to Person after Notice—Licensed Seller—Service of Notice on Barman—Sufficiency—Damages—Costs.

Action against a licensee under the Liquor License Act, R. S. O. 1897 ch. 245, to recover damages under sec. 125 of that Act for delivering intoxicating liquor to a certain person after notice under that section.

J. A. Robinson, St. Thomas, for plaintiff.

J. M. Glenn, K.C., for defendant.

MEREDITH, J.—. . . The main question is, whether notice was given to defendant as provided for in sec. 125, which is in these words:—

“The husband, wife, parent, child of 21 years or upwards, brother, sister, master, guardian, or employer, of any person who has the habit of drinking intoxicating liquor to excess . . . may give notice in writing, signed by him or her,