

The question of damages is not free from difficulty. The men will certainly be disabled for a year. Dr. Cockburn, a very careful and competent surgeon, who examined them under an order, thinks there is probability amounting almost to certainty of some permanent disability and suffering. Under all the circumstances I think I should award Schofield \$3,500 and Johnston \$2,500. If there is only liability under the Workmen's Compensation Act these amounts must be reduced to \$2,700 and \$1,500 respectively.

MASTER-IN-CHAMBERS.

NOVEMBER 17TH, 1913.

SNIDER v. SNIDER.

5 O. W. N. 325.

Pleading—Statement of Claim—Material Variation from Endorsement on Writ of Summons—Addition of Foreign Executors as Defendants—Attornment to the Jurisdiction—Judicature Act, 1913, s. 16 (h)—Rule 109.

HOLMESTED, K.C., *held*, that where subsequent to the appearance to the writ of summons certain foreign executors had become parties to the action and attorned to the jurisdiction and the plaintiff had thereupon materially changed his claim in his statement of claim from that set out in the writ of summons, he was entitled under the Rules to do so.

Motion by the defendants, the foreign executors of the late Thomas Albert Snider, to set aside the statement of claim on the ground that an entirely new claim from that mentioned in the endorsement on the writ is stated therein, and to dismiss the action on the ground that the plaintiff had abandoned the claim set out in the writ of summons. It was also objected that the statement of claim should not have been delivered because the writ was specially endorsed; this ground was, however, abandoned because the writ had issued before the new rules came into force.

W. J. Elliott, for defendants other than Snider.

H. E. Irwin, for plaintiff.

F. C. Snider, for defendant Snider.

HOLMESTED, K.C.:—The endorsement on the writ is for \$10,000 for 2 demand notes and interest thereon. The notes were made by Thos. Albert Snider and the original defendant