

The plaintiffs then sought to appeal to the Supreme Court of Canada, and were heard by SIR CHARLES FITZPATRICK, C.J., and IDINGTON, DUFF, ANGLIN, and BRODEUR, JJ.

S. T. Medd, for the motion.

D. O'Connell, contra.

THEIR LORDSHIPS quashed the appeal on the ground that there was no joint liability of the defendants, and none of them was liable for a sum exceeding \$1,000.

*Appeal quashed with costs.*

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DECEMBER 6TH, 1911.

GRAND TRUNK PACIFIC RAILWAY CO. v. BRULOTT.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO.

S. C. R.

*Negligence—Railway Company—Findings of Jury—Volens—Pleading.*

Appeal from a decision of the Court of Appeal for Ontario, 24 O. L. R. 154, maintaining the verdict at the trial in favour of the plaintiff (respondent).

The plaintiff Brulott, an employee of the defendant company, was assisting T., another employee, in repairing a car on a track in the yard, when other cars were propelled against it, whereby plaintiff was injured.

On the trial of an action against the railway company under the Workmen's Compensation for Injuries Act, a verdict was found for the plaintiff and maintained by the Court of Appeal. On appeal to the Supreme Court of Canada, the defendants contended that the verdict could not stand for two reasons. 1. That there was no finding that the injury to plaintiff resulted from his conformity to an order of a person in defendants' employ, which he was obliged to obey. 2. That the trial Judge, although requested by counsel for the defendants, to do so, refused to submit to the jury the question of whether or not the plaintiff voluntarily assumed the risk attendant upon working as he did when the accident happened.