

that the defendant, according to the correspondence produced, admits that he did not carry out the contract in the particulars above mentioned.

In these circumstances it appears to me the goods are, as the plaintiffs contend, the goods of the defendant, and on that ground also the allowance of service of the writ out of the jurisdiction was justified.

The motion is refused. Time for appearance is extended for a week to enable the defendant to appeal from this order, if so advised. The costs must be to the plaintiff in the action.

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SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

OCTOBER 9TH, 1913.

KING v. LIMERICK TOWNSHIP.

*Negligence — Highway — Unsafe Condition — Snowdrifts — Horse Killed — Notice to Municipal Council.*

SUP. CT. ONT. (2nd App. Div.) dismissed appeal from judgment awarding plaintiff \$125 damages for death of horse killed by reason of neglect of municipal council to make highway passable. Council had six months' previous notice to repair.

An appeal by the defendants from a judgment of HIS HONOUR JUDGE DEROCHE of Hastings County Court, pronounced 5th July, 1913.

This was an action to recover \$200, damages for the death of a horse, alleged to be due to injuries received and sustained while endeavouring to make its way along the highway, through snowdrifts allowed to accumulate thereon.

His Honour Judge Deroche, at trial gave plaintiff judgment for \$125 and costs.

The appeal to the Supreme Court of Ontario (Second Appellate Division), was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE CLUTE, HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND and HON. MR. JUSTICE LEITCH.

F. E. O'Flynn, for defendant township, appellants.

W. F. Morden, K.C., and W. D. M. Shorey, for plaintiff, respondent.