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No. 11.

HIGH COURT OF JUSTICE.

DIVISIONAL COURT.

SEPTEMBER 21ST, 1910.

GAMBLE v. TOWNSHIPS OF VAUGHAN AND MARKHAM.

Damages—Personal Injuries—Explosion of Dynamite—Physical Injury—Traumatic Neurasthenia—Liability of two Township Corporations—Relief over—Quantum of Damages.

The plaintiff, a widow, residing in a house fronting upon Yonge street, in the township of Markham, alleged that she had been injured in December, 1908, as the result of an explosion of dynamite used by a contractor for the defendants the Corporation of the Township of Vaughan in a gravel-pit situate in that township, across the road and a short distance from the plaintiff's house.

The plaintiff brought this action (to recover damages for her injuries) against the corporations of the two townships, because the highway on which the gravel from the pit was being laid ran between the townships, and was under the control of both corporations.

The defendants the Corporation of the Township of Markham claimed relief over against their co-defendants.

The action and the claim for relief over were tried, without a jury, by CLUTE, J., who found that there was a want of reasonable care amounting to negligence in the use of the dynamite; that from eight to ten times as much dynamite was used as was necessary, and that, if only a reasonable and proper amount had been used, it would not have caused any serious results to the plaintiff; that the plaintiff suffered injury by reason of the explosion, and that the injury she suffered was physical, and not purely mental. He distinguished the case from *Victorian Railways Commissioners v. Coultas*, 13 App. Cas. 222, *Henderson v. Can-*