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APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

SEPTEMBER 20TH, 1920.

BELL TELEPHONE CO. OF CANADA v. OTTAWA  
ELECTRIC CO. AND CITY OF OTTAWA.

*Workmen's Compensation Act—Employee of Plaintiff Company Killed by Touching Live Wire—Payment by Plaintiff Company to Dependants of Deceased—Action to Recover Amount from Electric Company and City Corporation—Judgment at Trial against Electric Company—Amending Statute Passed after Judgment Increasing Rate of Compensation—10 & 11 Geo. V. ch. 43, secs. 8, 12—Retroactivity—Amendment—Claim to Add Sum to Amount Received—Parties—Dependants of Deceased—New Assessment of Damages—Appeal—Cross-appeal—Costs.*

An appeal by the defendant the Ottawa Electric Company and a cross-appeal by the plaintiff company from the judgment of LENNOX, J., 18 O.W.N. 1.

The plaintiff company alleged that on the 22nd August, 1918, one of its employees, Eugene Gourgon, while acting in the course of his employment, in the city of Ottawa, came in contact with a wire charged with electricity, negligently left hanging by the defendant company or the defendant city corporation or both, and was instantly killed; that the plaintiff company had been unable to ascertain what was the arrangement between the two defendants; that, by reason of the negligence and consequent death of Gourgon, the plaintiff company had been compelled to pay Gourgon's dependants \$5,427.07, under the provisions of the Workmen's Compensation Act, 1914, 4 Geo. V. ch. 25 (O.); and the plaintiff company claimed to be repaid this sum by the defendants or one of them.

The action was tried by LENNOX, J., without a jury, at Ottawa, and he gave judgment on the 1st March, 1920, for the plaintiff company against the defendant company for the amount claimed, and dismissed the action as against the defendant city corporation.