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APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

JULY 6TH, 1916.

\*RYAN v. CANADIAN PACIFIC R.W. CO.

*Negligence—Railway—Servant's Death while Uncoupling Cars—  
Unpacked Frog—Findings of Jury—Evidence—Failure to  
Connect Negligence Found with Cause of Death—Inference—  
New Trial.*

Appeal by the defendants from the judgment of CLUTE, J., in favour of the plaintiff, the widow of Stephen Patrick Ryan, upon the findings of the jury, in an action to recover damages for his death by reason of the negligence of the defendants while he was working for them, uncoupling cars, by reason of his foot catching in an unpacked frog.

The findings of the jury were: (1) that the defendants were guilty of negligence which caused the accident; (2) that the negligence was, "frog not properly packed;" (3) that the deceased could not, by the exercise of reasonable care, have avoided the accident; (4) that the deceased did not, on the occasion in question, go between the cars when the train was in motion; and they assessed the damages at \$7,000; for which amount the trial Judge directed judgment to be entered for the plaintiff with costs.

The appeal was heard by GARROW, MACLAREN, MAGEE, and HODGINS, J.J.A.

W. N. Tilley, K.C., and W. H. Williams, K.C., for the appellants.

R. J. Byrnes, for the plaintiff, respondent.

\*This case and all others so marked to be reported in the Ontario Law Reports.