

eration is not the test, but the circumstances must all be looked at to see whether plaintiff's intention was then to release all claim, as defendants now assert. Plaintiff had no legal adviser, and, although he could write his own name, and do it very well, he could not write a letter. His son-in-law wrote two letters for plaintiff, and I may say at once that one of these, the letter of 29th March from plaintiff to McIntosh, was mainly the cause of my difficulty in determining just what plaintiff understood he was doing and intended to do when he signed the receipt on 13th May.

The accident happened on 13th March. Plaintiff was in bed 8 weeks. His medical attendant made about 54 visits, and his account was \$125.

Plaintiff's account of the alleged settlement, as given in examination and cross-examination, is, in substance, that quite a few days after he had gone back to work, McIntosh asked him if he was satisfied (with the settlement Wickens had made), and plaintiff said he was not, and McIntosh said he would telephone for Wickens. Wickens did not come to see plaintiff. A few days after that conversation, plaintiff got a message that McIntosh wished to see him at the office. At the office McIntosh had the paper ready, and simply said, "Robert, sign this, and I will pay you \$30 in money;" "Sign this cheque, and I can draw the money out of the bank." "These were all the words." . . .

Plaintiff had in another part of his examination said that at the first conversation after going back to work, he asked McIntosh if he was going to do anything for him, and McIntosh replied, "You have arranged with the Boiler Insurance Company," and plaintiff asked McIntosh to telephone Wickens. Whether Wickens was telephoned for or not, he did not appear, and at the second interview, at the office, plaintiff signed the receipt, and indorsed the Boiler company's cheque for \$30, which that company had made payable to the order of defendants. Plaintiff did not give candid or satisfactory answers as to his signature to the receipt. I think he knew that the signature was his, and should have said so at once, and his hesitancy and beating about the bush make it more difficult to accept his testimony when in contact with other evidence. Plaintiff knew that he signed a receipt and indorsed a cheque for \$30.