

Upon the argument, counsel for the defendants appeared entirely to misapprehend the meaning of this doctrine, and pressed for a direction that, if the plaintiffs intended to rely upon the principle *res ipsa loquitur*, the allegation of negligence should be stricken out of the pleading.

That is not the meaning of the rule. It is, that the occurrence, when proved, warrants a finding of negligence.

The order made by the learned Master appears to me to be oppressive and an abuse of the practice. If it means anything, it means that these people residing in Ireland are not to be permitted to present their case to our Courts unless they can explain to the railway company the cause of the accident by which their son was killed—a proposition so monstrous as to need nothing beyond this statement for its refutation.

While every precaution must be taken against allowing pleadings to become meaningless, by reason of the use of vague and general language, the tendency, now too frequently manifested, of making an order for particulars an instrument of oppression, must be sternly repressed. The particulars here are sought as an aid to pleading. No suggestion is made indicating how the pleader would be aided by the information sought.

The learned Master also made an order requiring particulars of the damages sought. I find it impossible to understand exactly what is meant by the order in question. It is as follows: "It is ordered that the plaintiffs shall deliver to the defendants further particulars of the actual damage suffered by the plaintiffs as a result of the death of the said Patrick Mulvenna in the accident complained of, but not of the special damages, if any, which the plaintiffs may be found entitled to at the trial."

Special damages are not sought in the action, in the ordinary sense in which that term is used. Had they been claimed, particulars might well have been ordered of them. An order for particulars of the damages claimed under the Fatal Accidents Act has never heretofore been made. The damages are to be such as the jury may estimate as representing the probable pecuniary benefit the plaintiffs would have received from the continuance of the life of the deceased. How particulars could be given of this it is impossible to suggest.

Counsel stated that what he really desired was a statement of the benefits that the parents had received in the past from their son. This is not what has been ordered, nor would it be proper that it should be ordered, as it would be compelling the plaintiffs to give particulars of the evidence by which they intend to sup-