

claimant in addition to an amount equal to twenty-five per cent. of the claim, do not include counsel fees paid by the defendant's solicitor to counsel retained in the course of the proceedings, and a fortiori not counsel fees charged by the solicitor himself when acting as counsel.

Judgment of FALCONBRIDGE, C.J.K.B., affirmed.

*Crestwicke*, for appellants. *Gwynne*, for respondents.

Street, J., Britton, J.]

[April 17.

McINNES v. TOWNSHIP OF EGREMONT.

*Municipal corporation—Negligence—Non-repair of bridge. Absence of railing—Necessity of notice.*

Action for damages sustained by plaintiff who was crossing a bridge in the defendant's township during a thunderstorm between 9 and 10 o'clock at night on May 6, 1902, when a sudden flash of lightning caused his horse to swerve, and the horse's foot went into a gap in the logs of which the bridge was constructed, close to the edge of the bridge, and there being no railing at the side of the bridge, they all fell into the water, which was within eighteen inches of the bottom of the bridge, and the plaintiff sustained injury. On May 26 the plaintiff gave a notice to the defendants of the accident as having occurred on May 7 instead of on May 6, describing the circumstances and stating it was during a thunderstorm, and also that he had rescued his horse by the aid of a certain neighbor, whom he named.

*Held*, that the cause of the accident as a matter of law and fact was the negligence of the defendants in not providing the bridge with a proper railing, and that the thunderstorm was one of those ordinary dangers which ought to have been thus provided against, and that the notice given to the defendants was sufficient within sub s. 3 of s. 606 of the Municipal Act and the defendants were liable.

*Kingston*, for defendants. *McKay* for the plaintiff.

Street, J., Britton, J.]

[April 28

PETERBOROUGH v. GOLD MEDAL CO.

*Libel and slander. Privilege. Publication—Stenographer.*

*Held*, that the fact that the Manager of the above company had in the ordinary course of the correspondence of the company, handed to the company's stenographer, to be typewritten by him, a draft letter containing defamatory statements, but of a privileged nature did not amount to such a publication of the letter as took away the privilege.

*Cooke*, for motion. *J. E. Jones*, for plaintiff.