

JUNE 16TH, 1906.

C.A.

GLOSTER v. TORONTO ELECTRIC LIGHT CO.

Negligence—Injury to Infant—Electric Wire—Proximity to Highway—Nuisance—Jury.

Appeal by defendants the electric light company from judgment of TETZEL, J., in favour of plaintiffs, upon the findings of a jury, in an action by a boy of eight and his father against the electric light company and the corporation of the township of York, to recover damages for injuries sustained by the boy and consequent expense occasioned to his father by the alleged negligence of defendants in leaving a live wire so exposed that the boy touched it. This was in crossing the Glen road bridge from the city of Toronto into the township of York, on 8th October, 1904. The jury exonerated the township corporation, but found the electric light company guilty of negligence, and assessed the boy's damages at \$1,700 and the father's at \$800.

W. R. Riddell, K.C., and R. H. Greer, for defendants.

*W. N. Ferguson, for plaintiffs.

The judgment of the Court (MOSS, C.J.O., OSLER, GARROW, MACLAREN, JJ.A.), was delivered by

OSLER, J.A.:— . . . Several years before the occurrence which gave rise to the action, a private corporation known as the Scottish Ontario Land Co. were the owners of a large plot of ground in the township of York near the city of Toronto, part of which they had laid out into building lots, laying out streets thereon which connected with existing highways in the township. They had also, in order to provide for access to and from the city, built a substantial bridge 24 feet in width over a wide and deep ravine on their property. Neither the street (Glen road) as laid down on the plan through the ravine, nor the bridge over it, had been assumed by the defendant township corporation as a public highway, though the latter, as the settlement in the township grew up, came into constant and extensive use. After the bridge was built, and some 9 or 10 years before action, the defendants the electric light company carried their