

S.C.R. 39, 67, Anglin, J., speaks of a similar duty as an "absolute duty," but I do not understand that that learned Judge used the word "absolute" in the sense in which the learned counsel used it, but that all that was meant is, that it is a duty which the employer may not delegate; and I agree that the respondent in this case is responsible for any neglect of this duty on the part of its manager, though as to other matters there would be no liability at common law because the manager was a fellow-servant of the deceased.

I am unable to discover anything in the evidence which warrants the finding of the jury that the respondent's manager did not exercise reasonable care in the employment of Gallagher or that the manager's negligence as well as that of Gallagher "led to the explosion." Gallagher was a plumber and steam-fitter in apparently good standing and of upwards of twenty years' experience. The work as to which he was employed to give his opinion, and which he was afterwards employed to do, was a simple one, and one which involved no danger from the operation of it, if the most ordinary precautions were taken to provide an adequate vent for the air. It is a startling and to me a novel proposition that a householder who employs a competent plumber and steam-fitter to make a connection between his furnace and his kitchen does so at the peril of being answerable for any injury that may be occasioned to his servants owing to the neglect of the plumber and steam-fitter to provide some safety device which he erroneously believes to be quite unnecessary—at all events, unless the householder knows or ought to know of the defect.

All the witnesses, including the experts called by the appellants, agree that what the manager required to be done was feasible, and, as I gather from their evidence, could be done and the system be operated with safety, and, as I have said, was something that any plumber and steam-fitter who understood his business could be trusted to do.

There was no evidence upon which the respondent could be held liable for having employed an incompetent man to do the work which was entrusted to Gallagher.

There was no evidence of Gallagher's incompetency beyond the fact that the work which he did on this occasion was unskillfully done, and there was no evidence that the respondent or Pollock knew that Gallagher was incompetent. . . .

[Reference to *Lovegrove v. London Brighton and South Coast R.W. Co.* (1864), 16 C.B.N.S. 669, per Willes, J., at pp. 691, 692.]