

arbitrators as evidence establishing the value of the property at the time of its expropriation.

*Per* Idington and Brodeur, JJ. In the circumstances of the case the arbitrators were not *functi officii* as their award had been invalidly made.

The appeal from the judgment of the Appellate Division of the Supreme Court of Alberta (7 West. W.R. 1327), and the cross-appeal therefrom were dismissed with costs.

*Chrysler*, K.C., for appellants. *Frank Ford*, K.C., for respondent.

Ont.] ALGOMA STEEL CORPORATION v. DUBÉ: [June 19.  
DUBÉ v. LAKE SUPERIOR PAPER CO.

*Negligence—Hir. of machinery—Negligence of hirer—Negligence of owner—Master and servant.*

The steel company hired from the paper company a crane and crew of two men, D. to run it and a fireman. In doing the work for which it was hired, the crane fell, and D. was killed. In an action by his widow for damages, the jury found that the crane was a dangerous machine and that the steel company was negligent in not having a rigger to superintend its operation.

*Held*, affirming the judgment of the Appellate Division (35 Ont. L.R. 371), that the steel company owed to D. the duty of seeing that the crane was properly operated; that the evidence justified the finding of the jury that a rigger was necessary for that purpose; and that the judgment against that company should stand.

The jury also found that the crane was defective when delivered to the steel company and that the paper company was guilty of negligence in not supplying proper equipment for it.

*Held*, reversing the judgment of the Appellate Division, Davies and Idington, JJ., dissenting, that the relation of master and servant existed between the paper company and D. up to the time of the latter's death; that the company, in sending D. to run a dangerous machine not properly equipped, would be responsible for any injury caused by its operation; and that it was not relieved from responsibility by the fact that the injury might have been avoided if the steel company had provided proper superintendence over its operation.

Appeal dismissed with costs; cross-appeal allowed with costs.

*Anglin*, K.C., and *J. E. Irving*, for the Algoma Steel Co., appellants.

*T. P. Galt* and *McFadden* for Dubé, respondent and cross-