

JUNE 28TH, 1907.

C.A.

WILSON v. DAVIES.

*Master and Servant—Injury to Servant and Consequent Death
— Negligence of Master — Dangerous Employment —
Primary Negligence of Servant Immediate Cause of
Injury — Findings of Jury — Voluntary Assumption of
Risk.*

Appeal by defendant from judgment of MABEE, J., on the findings of a jury, in favour of plaintiff for \$1,500, in an action by the widow of John Wilson to recover damages for his death.

E. F. B. Johnston, K.C., and R. H. Greer, for defendant.

J. E. Jones, for plaintiff.

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

MACLAREN, J.A.:— . . . Deceased was employed in defendant's brick factory, and it was part of his duty to remove from the drying room to the cooling room cars loaded with bricks as they severally became ready for such removal. The drying room in question was a long narrow room with 4 parallel tracks, each 3 feet in width, which had an incline from the north end where the loaded cars entered of one inch in 10 feet or a total incline of 8 inches in the 80 feet. The cars projected 5 or 6 inches over the tracks on each side, so that when the tracks were filled with cars there were two trains of cars on the east side and two on the west with a passage in the centre, but with the space from either wall to this passage completely covered. At the south or lower end of the drying room, separating it from the cooling room, were two doors which were raised by weights when required. Between these doors at the south end of this passage was a post with grooves into which the sliding doors fitted. Under the forward wheels of the southerly car on each track was placed a block of wood, a little over 3 feet in length, to prevent the cars from running against the sliding doors.