

## SUPREME COURT OF ONTARIO.

FIRST APPELLATE DIVISION.

MARCH 31ST, 1914.

SCHOFIELD v. BLOME.

JOHNSTON v. BLOME.

6 O. W. N. 149.

*Negligence—Injury to Workman — Fall from Hoist—Negligence of Foreman—Workmen's Compensation Act—Building Trades Protection Act, 1 Geo. V., c. 71, s. 6—Reasonable Safety from Accident—Evidence—Damages.*

Actions for damages for personal injuries sustained by plaintiffs, employees of defendants, by reason of the fall of a hoist being used temporarily by them while bricking up openings in a wall of a building, the said accident occurring through the alleged negligence of defendants. The hoist was operated by a cable and drum driven by a stationary engine which also operated a fixed drum for other purposes.

MIDDLETON, J., 25 O. W. R. 282; 5 O. W. N. 328, *held*, that the defendants were liable under the Workmen's Compensation Act in that plaintiffs were working as they were in obedience to the orders of their foreman, who was negligent in not forbidding the hoisting engine to be used for any other purposes while the plaintiffs were upon the hoist.

That they were also liable under the Building Trades Protection Act, 1 Geo. V. c. 71, s. 6, in that the hoist in question was not being operated so as to afford reasonable safety to those using it.

Judgment for plaintiffs for \$3,500 and \$2,500, respectively; if liability under Workmen's Compensation Act only, then for \$2,700 and \$1,500, respectively.

SUP. CT. ONT. (1st App. Div.) affirmed above judgment.

Appeals by defendants from the judgments of HON. MR. JUSTICE MIDDLETON, 25 O. W. R. 282.

The appeals to the Supreme Court of Ontario (First Appellate Division) were heard by HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE HODGINS.

R. McKay, K.C., and C. V. Langs, for the appellants.

T. Hobson, K.C., and A. M. Telford, for the plaintiff Schofield, respondent.

A. M. Lewis, for the plaintiff Johnston, respondent.

THEIR LORDSHIPS (v.v.) dismissed the appeals with costs.