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No. 12

APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

MAY 30TH 1918.

*ROWAN v. TORONTO R.W. CO.

Interest—Action for Damages for Personal Injuries—Findings of Jury—"Verdict"—Judgment by Trial Judge and Court of Appeal in Favour of Defendants—Reversal by Supreme Court of Canada—Judgment for Amount of Damages Found by Jury—Interest from Date of Trial to Date of Judgment of Highest Appellate Court—Whether Recoverable—Judicature Act, secs. 35 (4), 61—Settlement of Minutes of Judgment.

An appeal by the plaintiff from the order of MIDDLETON, J., ante 173.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, RIDDELL, SUTHERLAND, and KELLY, JJ.

N. Sommerville and V. H. Hattin, for the appellant.

J. W. Bain, K.C., for the defendants, respondents.

MULOCK, C.J.Ex., was of opinion that the order appealed from was right. The Judicature Act, R.S.O. 1914 ch. 56, sec. 35 (4), declares that, "unless otherwise ordered by the Court, a verdict or judgment shall bear interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be, notwithstanding that the entry of judgment shall have been suspended by any proceeding in the action including an appeal." For a plaintiff to be entitled to recover interest after trial, under the provisions of this enactment, upon the damages awarded by the jury, it must appear either that a verdict has been rendered or judgment given in favour of the plaintiff.

* This case and all others so marked to be reported in the Ontario Law Reports.