

# The Ontario Weekly Notes

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## APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

SEPTEMBER 29TH, 1919.

\*WALKER v. MARTIN.

*Motor Vehicles Act—Injury to Person on Foot in Highway by Motor Vehicle Driven by Daughter of Owner—Negligence of Driver—Liability of Owner—Vehicle in Possession of Daughter without Consent of Father—"Person in the Employ of the Owner"—Absence of Contractual Relationship—R.S.O. 1914 ch. 207, sec. 19, as Amended by 7 Geo. V. ch. 49 sec. 14.*

Appeal by the plaintiff from the judgment of MASTEN, J., 16 O.W.N. 220, 45 O.L.R. 504, dismissing the action as against the defendant, Edward E. Martin.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LATCHFORD, and MIDDLETON, JJ.

Shirley Denison, K.C., for the appellant.

George Lynch-Staunton, K.C., and W. H. Barnum, for the defendant Edward E. Martin, respondent.

THE COURT were of opinion that the plaintiff's injuries were not caused by any violation of the Motor Vehicles Act; that the defendant Vivian Martin, the driver of the car, was answerable in damages for the plaintiff's injuries, apart from any of the provisions of the Act; but, if that were not so, she alone was liable under the provisions of the Act. The Court agreed with the trial Judge that the defendant Vivian was not in the service of her father, the other defendant, and had taken his motor vehicle without his consent and in disobedience to his orders.

*Appeal dismissed with costs.*

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