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APPELLATE DIVISION.

FEBRUARY 5TH, 1914.

PASKWAN v. TORONTO POWER CO.

Master and Servant—Injury to and Death of Servant—Common Law Liability of Master—Negligence—Defective System—Safety Device—Evidence—Findings of Jury.

Appeal by the defendants from the judgment of KELLY, J., upon the findings of a jury, in an action by the widow of John Paskwan, who was killed while working for the defendants at their power-house, to recover damages for his death.

The appeal was heard by Boyd, C., RIDDELL, MIDDLETON, and LEITCH, JJ.

D. L. McCarthy, K.C., for the appellants.

T. N. Phelan and O. H. King, for the plaintiff, the respondent.

MIDDLETON, J. :—The action was brought by the widow of the late John Paskwan, who was killed at the power-house of the defendant company on the 8th February, 1913, to recover damages at common law, and, in the alternative, under the Workmen's Compensation for Injuries Act, for his death.

Although the appeal as launched covers wider ground, upon the argument it was confined to the discussion of the question whether liability at common law had been shewn.

Paskwan was employed as a rigger in the house over the fore-bay of the power company's works at Niagara Falls. A travelling crane is there erected. This crane travels from end to end of the house. The hoisting apparatus travels across the house at right angles. From the crane are suspended two hooks, the