

was not the appellant who was anxious for this; it was probable that it was desired by the plaintiffs' manager (Lee) to add strength to the security.

MACLAREN and MAGEE, JJ.A., concurred.

HODGINS, J.A., took no part in the judgment.

Appeal dismissed with costs.

FIRST DIVISIONAL COURT.

FEBRUARY 7TH, 1917.

TOBEN v. ELMIRA FELT CO.

Master and Servant—Injury to Servant—Negligence—Defective Condition of Machine—Causal Connection with Injury—Absence of Contributory Negligence—Evidence—Findings of Jury—Judge's Charge.

Appeal by the defendants from the judgment of LATCHFORD, J., upon the findings of the jury at the trial, in favour of the plaintiff for the recovery of \$4,000 damages for injuries sustained by the plaintiff by being struck on the head by part of a shoddy-picker machine which he was feeding for the defendants in their factory, by reason, as the plaintiff alleged, of the negligence of the defendants in regard to the condition of the machine or otherwise.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, HODGINS, and FERGUSON, JJ.A.

R. McKay, K.C., and W. Morrison, for the appellants.

W. N. Tilley, K.C., and N. Jeffrey, for the plaintiff, respondent.

The judgment of the Court was read by MEREDITH, C.J.O., who said that, according to the testimony of the plaintiff, the machine "would not go," and he was engaged in picking pieces of felt out of the apron of it with his right hand and holding in his left hand a wrench with which he had just before tightened the screws of the machine that had become loose. He stooped in order to do the picking, and when in a stooping position he was struck on the right side of the head by something and rendered un-