

plaintiff by being thrown down by a horse and waggon when he was crossing Yonge street, in the city of Toronto.

The appeal was heard by MEREDITH, C.J.C.P., MAGEE and HODGINS, J.J.A., and LENNOX, J.

M. C. Cameron, for the appellants.

D. L. McCarthy, K.C., for the plaintiff, respondent.

MEREDITH, C.J.C.P., reading the judgment of the Court, said that the only question arising on the appeal was, whether there was any evidence upon which reasonable men could find, as the jury did, that the man who was found by the jury to be in law blamable for the accident was, at the time of the accident, acting within the scope of an employment by the appellants. He was a "sales-agent;" he sold and delivered the appellants' wares, being paid for his services by a commission on the price of the goods only. The plaintiff's injury was caused in a collision with the horse which the "sales-agent" was driving back to the appellants' stables after his day's work was done. The horse and waggon were not the appellants', but were necessary for the performance of the man's duties, and were hired for the purpose.

The learned Chief Justice was of opinion that, upon the evidence adduced at the trial, reasonable men might find that the man was, when the accident happened, about his employers' business, and conforming to the terms of his contract with them, as well as about his own business of earning his livelihood by the commissions he won in doing the work involved in selling and delivering his employers' wares.

Reference to *Parker v. Owners of Ship "Black Rock,"* [1915] A.C. 725; *Richards v. Morris*, [1915] 1 K.B. 221; *Edwards v. Wingham Agricultural Implement Co. Limited*, [1913] 3 K.B. 596; *Whatman v. Pearson* (1868), L.R. 3 C.P. 422; *Turcotte v. Ryan* (1907), 39 S.C.R. 8.

*Appeal dismissed with costs.*