

as they were at liberty to do, offered another. It was said that if after the cargo had been objected to, another had been immediately offered, the rule to be applied might have been different. I do not think so. . . . A contract had been arrived at, which was acceptable to both parties, and it could not be altered without the assent of both parties."

In the present case there was no selection within the time of the contract of any particular lot. The contract was satisfied if within the time the plaintiffs tendered required sample which the defendants approved. I do not think the question of election arises in this case. The plaintiffs were ready to comply with the terms of their contract and the defendants refused inspection.

The plaintiffs were, therefore, entitled to recover damages for such refusal, and the appeal should be dismissed with costs.

HON. SIR WM. MULOCK, C.J. EX., HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH agreed.

HON. MR. JUSTICE LENNOX.

MARCH 14TH, 1913.

MACDONALD v. TORONTO R.W. CO.

4 O. W. N. 947.

*Negligence—Collision with Street Car — Injury to Automobile—
Depreciation—Personal Injury—Quantum.*

LENNOX, J., gave judgment for plaintiff for \$900 in an action for damages for injuries sustained by reason of a collision between plaintiff's automobile and defendants' street car through the alleged negligence of defendants.

Action by plaintiff, a Toronto physician, for \$2,696, being the value of plaintiff's automobile, which was run into by a car of defendants, and various expenses arising from the collision, or for \$1,400, the difference in value between the automobile before the collision, and the same automobile as and when properly repaired. Tried at Toronto Non-jury Assizes.

C. A. Masten, K.C., for the plaintiff.

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