

from this action. I think then, that the order should go. This is not a common law action like *Stavert v. McNaught* (*supra*), but is clearly governed by *Bryans v. Moffatt* (*supra*), being a case which, in my opinion, ought to be tried without a jury. I don't know that it can be said with absolute certainty that "no Judge would try the issues with a jury," but the judgment in *Clisdell v. Lovell* 15 O. L. R. 379, was pronounced before the promulgation of rule 1322. I concur in the meaning and effect of this rule adopted by Mr. Justice Riddell in *Bissett v. Knights of the Maccabees*, 22 O. W. R. 89. This rule, whilst it enlarges the powers of a Judge in Chambers, prevents embarrassment by vesting the ultimate decision in the trial Judge. I direct that the action be tried without a jury.

Costs will be costs in the cause.

HON. MR. JUSTICE LENNOX.

JUNE 5TH, 1913.

BEAHAN v. NEVIN.

4 O. W. N. 1399.

Negligence—Fatal Injuries Act—Death of Boy Struck by Motor-Cycle—Quantum—Reasonable Pecuniary Expectation.

LENNOX, J., gave judgment for \$530 in an action brought for damages for the death of plaintiff's son, a boy of eleven years, killed by being struck by defendant's motor cycle through his alleged negligence.

Action by father for damages for the death of his son, a boy aged eleven years, by reason of his having been struck by a motor cycle ridden by defendant, Gordon Nevin, through the alleged negligence of the latter.

F. D. Davis, for plaintiff.

T. G. McHugh, for defendant, Frederick Nevin.

E. S. Wigle, for defendant, Gordon Nevin.

HON. MR. JUSTICE LENNOX:—On the 29th of October, 1912, the defendant, Gordon Nevin, was riding a motor bicycle in the city of Windsor, and ran over and knocked down William Beahan, a son of the plaintiff. The boy was so seriously injured that he died within a few hours. The plaintiff is a labourer and brings this action on behalf of him-