

company paid \$1,200 damages; this sum being accepted by the plaintiff in full of its liability, and, the electric company consenting, without prejudice to her claim against the latter company. Tried at Hamilton on 1st April, 1913.

G. S. Kerr, K.C., and G. C. Thompson, for the plaintiff.

M. J. O'Reilly, K.C., for the defendants, the Western Counties Electric Company.

HON. MR. JUSTICE MIDDLETON :—At the time of the happening of the accident Roberts was engaged as an employee of the Bell Telephone Company, in the stringing of a wire called "a messenger wire," along Dufferin street, Brantford. A messenger wire is a naked steel wire from which a telephone cable is suspended. This particular messenger wire, at the intersection of Dufferin street and St. Paul street, passed over another messenger wire which carried a cable running along St. Paul street. In the course of his work Roberts came in contact with the latter wire, and received from it an electric shock which caused his death. It was afterwards found that a block away from this point the messenger wire on St. Paul street was in contact with a primary electric wire of the electric company, carrying 2,200 volts.

This electric wire was strung along Blake street, which runs parallel with Dufferin street, and when near the intersection of Blake and St. Paul streets the wire was strung diagonally across St. Paul street, above the Bell messenger wire, to the opposite side of the street, where it joined the main electric line passing up and down St. Paul street. The poles carrying this particular span were twenty-nine feet high, and the span was 113 feet. At the time of the accident it was found that the messenger wire was four feet six inches below a straight line between the electric light insulators.

The electric wire was put up in August, 1911, or earlier. The telephone messenger wire was not placed in position until some time in 1912. The evidence as to the relative position of the two wires at the latter date is exceedingly meagre and unsatisfactory. The electric wire, when placed in position, had, it is said, a sag of two feet. This would bring the wires within two feet six inches of one another,