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No. 19

MACMAHON, J.

JULY 3RD, 1899.

TRIAL.

WILSON v. LINCOLN PAPER MILLS CO.

Master and Servant—Injury to Servant—Cause of Accident—Evidence—Negligence.

Action by John Wilson, as administrator of the estate of John Wilson the younger, to recover damages for the death of the latter from injuries received by him while in the employment of defendants at Merritton, owing, as alleged, to the unsafe and defective condition of a hoist in defendants' mill.

The jury found that the deceased came to his death through a defective elevator; that there was negligence of defendants in not having a guard and not having sufficient light; that the deceased was not guilty of any act which contributed to his death; and assessed plaintiff's damages at \$700.

There was evidence that the approach to the hoist shaft was unguarded, and that the hoist was defectively constructed in that it had no catch.

G. Lynch-Staunton, Hamilton, and J. H. Ingersoll, St. Catharines, for plaintiff.

B. B. Osler, Q.C., for defendants.

MACMAHON, J., held that defendants were liable, notwithstanding that there was no direct evidence of how the deceased was injured. *Kerwin v. Canadian Coloured Cotton Mills Co.*, 28 O. R. 73, 25 A. R. 36, 29 S. C. R. 478, distinguished. *Groves v. Wimborne*, [1898] 2 Q. B. 402, followed.