

it. Moreover, nothing would be gained if the examination were quashed.

The appeal and substantive motion should be dismissed with costs.

LENNOX and MASTEN, JJ., concurred.

MEREDITH, C.J.C.P., in a brief written opinion, agreed that certiorari was out of the question, and pointed out the applicant's remedy against the plaintiff in the action.

*Appeal and motion dismissed with costs.*

SECOND DIVISIONAL COURT.

APRIL 14TH, 1916.

ADAMS v. WILSON.

*Negligence—Collision of Vehicles in Highway—Findings of Jury—Contributory Negligence—Dismissal of Action Brought by Injured Person.*

Appeal by the defendant from the judgment of one of the Junior Judges of the County Court of the County of York (COATSWORTH), in favour of the plaintiff, upon the findings of a jury, in an action for damages for injury caused to the plaintiff, while riding a motor bicycle upon a street in the city of Toronto, by being run down by the defendant's motor-car, alleged to have been operated in a negligent and careless manner and at excessive speed. The jury assessed the plaintiff's damages at \$450, for which amount judgment was given by the trial Judge.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

G. H. Sedgewick, for the appellant.

E. E. Wallace, for the plaintiff, respondent.

LENNOX, J., read a judgment in which he set out the findings of the jury, which may be thus summarised: (1) The plaintiff and defendant were going in different directions on Defoe street when the accident happened; (2) there was negligence on the part of both the defendant and the plaintiff; (3) the defendant had not proved that the collision did not occur from any negligence or improper conduct on his part; (4) in answer to a question whether the plaintiff was guilty of contributory negligence, "We believe there was negligence on the part of the plaintiff."

The jury's answers were conclusive against the plaintiff's right to recover.