

in my opinion, to disentitle them to a commission, to say that the vendor had proceeded with his negotiations with the purchaser without the knowledge that the agents had been instrumental in bringing the parties together.

I think this point was involved in the decision of Wilkinson v. Alston, *supra* . . . The decision of the Commission of Appeal, New York, in Lloyd v. Matthews, 51 N.Y. 125, is to the same effect. . . .

With respect, I think the judgment appealed from should be set aside and judgment entered for the plaintiffs for the amount of their commission, with costs here and below.

LATCHFORD, J., gave reasons in writing for the same conclusion.

SUTHERLAND, J., also concurred.

Appeal allowed.

DIVISIONAL COURT.

MARCH 8TH, 1912.

DARKE v. CANADIAN GENERAL ELECTRIC CO.

Master and Servant—Injury to and Death of Servant—Liability—Negligence—Contributory Negligence—Findings of Jury—Evidence—Workmen's Compensation for Injuries Act, sec. 3, sub-sec. 2; sec. 2, sub-sec. 1—Person Intrusted with Superintendence—Extended Meaning of.

Appeal by the plaintiff from the judgment of MULOCK, C.J. Ex.D., ante 368, dismissing the action, which was brought by the widow of Hugh Darke to recover damages for his death while in the employment of the defendants, in their works at Peterborough, as a machinist's helper.

The appeal was heard by CLUTE, LATCHFORD, and SUTHERLAND, JJ.

D. O'Connell, for the plaintiff.

G. H. Watson, K.C., and L. M. Hayes, K.C., for the defendants.

CLUTE, J.:— . . . Darke was a workman in the defendants' employ, under Jeffries, the foreman of the mechanical