

MIDDLETON, J.

APRIL 14TH, 1913.

ROBERTS v. BELL TELEPHONE CO. AND WESTERN
COUNTIES ELECTRIC CO.

Negligence—Death of Employee of Telephone Company from Electric Shock—Liability of Electric Light Company—Proximity of Wires—Sagging Wires Causing Contact—Neglect of Precautions and Inspection—Duty of Electric Light Company—Use of Dangerous Substance—Authority of Legislature—Proximate or Effective Cause of Injury—Intervention of Wrongful Act of Third Party.

Action by the widow of Herbert Roberts, on behalf of herself and infant children, to recover damages for his death on the 16th September, 1912.

The action was tried before MIDDLETON, J., without a jury, at Hamilton, on the 1st April, 1913.

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

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

MIDDLETON, J.:—The action was settled between the plaintiff and the Bell Telephone Company. That company paid \$1,200 damages; this sum being accepted by the plaintiff in full of that company's liability; and, the electric company consenting, without prejudice to her claim against the latter company.

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