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DIVISIONAL COURT.

LUDLOW v. BATSON.

*Slander—Words not Actionable per se—Profit of Special Damage—
Loss of Consortium of Wife—Loss of Boarder.*

Motion by plaintiff to set aside nonsuit entered by STREET, J., at the trial at Brantford in an action for slander, and for a new trial. One Olive Batson, niece of plaintiff's wife, whose parents had died when she was quite young, had lived with plaintiff and his wife for twelve years, plaintiff receiving an allowance for the child's board from her father's executors, of from \$2.50 to \$3 a week. The defendant was a brother of Olive Batson, and the allegation was that defendant said that plaintiff put in an account to William Campbell (one of the executors) for candies, oranges, Sunday school collections. The innuendo in the statement of claim was, that plaintiff made up a fictitious account and by false pretences obtained payment thereof from Campbell, and was therefore guilty of an indictable offence. At the trial plaintiff's counsel admitted that the words were not capable of the meaning charged, but contended that the words were actionable upon proof of special damage. The special damage charged was that plaintiff's wife left him because of these statements made by defendant. The trial Judge held that the words sworn to were not actionable, even if the special damage alleged were proved, and he rejected evidence thereof.

W. S. Brewster, K.C., for plaintiff.

J. Harley, K.C., for defendant.

FALCONBRIDGE, C.J.—Any words are actionable by which the party has a special damage: Moore v. Meagher, 1 Taunt. at p. 44; Odgers on Libel, 3rd ed., 95, 96, 97; Ratcliffe v. Evans, [1892] 2 Q. B. 524, 527. Inquiry in this case is, therefore, limited to the question whether this alleged special damage is such as the law will recognize as being the natural and resonable result of defendant's words, or whether it ought to be deemed too remote. It cannot be considered the fair and natural result of the speaking of these words. If