

MIDDLETON, J., IN CHAMBERS.

APRIL 30TH, 1918.

*ROWAN v. TORONTO R.W. CO.

Interest—Action for Damages for Personal Injuries—Findings of Jury—"Verdict"—Judgment thereon by Trial Judge and Court of Appeal in Favour of Defendants—Reversal by Supreme Court of Canada—Judgment for Amount of Damages Found by Jury—Interest from Date of Trial not Allowed—Settlement of Minutes of Judgment—Delay—Costs.

Motion by the defendants to vary the minutes of a judgment settled by a judgment clerk on the 20th January, 1900.

J. S. Duggan, for the defendants.

J. E. Jones, for the plaintiff.

MIDDLETON, J., in a written judgment, said that the action (which was brought in the High Court of Justice for Ontario to recover damages for personal injuries sustained by the plaintiff by being run into by a car of the defendants while riding a bicycle in a highway) was tried on the 3rd June, 1897; questions were submitted to the jury, and on the answers the trial Judge directed judgment to be entered for the defendants. The judgment of the trial Judge was affirmed by the Court of Appeal. In the Supreme Court of Canada, that which had been regarded in the Courts below as a finding of contributory negligence was not so treated; and, on the 3rd October, 1899, the appeal was allowed, and it was directed "that judgment should be entered in favour of the appellant (the plaintiff) for \$1,500:" *Rowan v. Toronto R.W. Co.* (1899), 29 S.C.R. 717.

A judgment clerk in the High Court of Justice, having a certificate of this judgment presented to him to carry it into effect, on the 20th January, 1900, settled a judgment directing that the plaintiff should recover \$1,751.25—the additional \$251.25 representing interest from the date of the trial until the date of the judgment.

The defendant then moved to vary the minutes by reducing the amount to \$1,500. This motion was heard on the 25th January, 1900, by Sir W. R. Meredith, then Chief Justice of the Common Pleas, who reserved judgment to allow an application to be made to the Supreme Court of Canada. An application was made by the plaintiff to that Court to vary the judgment so as to make it direct payment of interest or to have it declared that the