

MASTEN, J.

MAY 28TH, 1919.

WALKER v. TOWNSHIP OF SOUTHWOLD.

*Highway—Nonrepair—Injury to Passenger in Motor Vehicle—
Statutory Obligation of Township Corporation (Municipal Act,
sec. 460)—Failure to Fulfill—Cause of Injury—Damages.*

Action by Genevieve Walker against the Corporation of the Township of Southwold to recover damages for injury sustained by an accident to a motor vehicle in which she was a passenger, upon a highway in the township, which she alleged was out of repair and in a dangerous condition.

The action was tried without a jury at St. Thomas.
O. L. Lewis, K.C., and R. L. Gosnell, for the plaintiff.
W. K. Cameron, for the defendants.

MASTEN, J., in a written judgment, said that, in rounding a curve, the motor vehicle, though going at a very moderate rate of speed, in daylight, swerved slightly to the left off the via trita, and, returning to the track, got slightly too far to the right. At this point there was an embankment 14 feet high, and the road was very narrow, while the soil at the side of the beaten track was sandy and loose. When the car swerved to the right, the soil gave way, it became impossible to recover the via trita, and the car tipped over the embankment; the plaintiff was thrown out and injured.

The learned Judge found that the defendants had failed to fulfill the statutory obligation imposed upon them—sec. 460 of the Municipal Act, R.S.O. 1914 ch. 192. The highway was not maintained in a proper condition for the existing traffic over it. The breach of the statutory duty was the cause of the accident.

Damages assessed at \$500, and judgment for the plaintiff for that amount, with costs.