

strator employed by them, without their knowledge or permission, and for his own purposes.

The appeal was heard by BOYD, C., LATCHFORD and MIDDLETON, JJ.

J. W. Curry, K.C., for the defendants.

W. G. Thurston, K.C., for the plaintiff.

The judgment of the Court was delivered by BOYD, C.:—The defendants and their motor vehicle (which did the damage) are under and subject to the provisions of the Ontario statute 6 Edw. VII. ch. 46, and its amendments. Section 13 declares that the owner of a motor vehicle for which a permit is issued shall be held responsible for any violation of the statute law aforesaid. One of the provisions of the Act (which was violated in this case) is that no motor vehicle shall be run over any public highway within any city at a greater speed than ten miles an hour (sec. 6). In case of accident, where any loss or damage arises by reason of a motor vehicle on a highway, the onus of proof that such loss or damage did not arise through the negligence or improper conduct of the owner or driver shall be upon the owner or driver of the vehicle (sec. 18). Section 19*d* (added by 9 Edw. VII. ch. 81) provides that in the event of the employer of a person driving a motor vehicle for hire being present in the vehicle at the time of any offence against the Act being committed, the employer as well as the driver shall be liable to conviction for such offence. Read with sec. 13, the import seems to be that, though the owner may not be responsible in a penal aspect for a violation of the Act unless he is personally present, he does become personally responsible in damages where there has been a violation of the Act by his vehicle. There is in the latter case a quasi-liability in rem, which attaches to him as the owner of the mischief-working or law-breaking vehicle.

The Chief Justice finds in this case (on disputed statements in evidence) that the damage to the plaintiff's taxicab was caused by the direct impact of the defendants' automobile. He also finds that the defendants have failed to prove that this damage did not arise through the negligence or improper conduct of the driver. The Chief Justice also finds affirmatively that, as the defendants' motor was not one for hire or private use, but was, by the terms of the permit, held for sale only, there was an obligation to take care that it was not taken out by any servant for any unauthorised purpose, and that there was negligence in not effectively providing against such unauthorised user.