

tiff was on the other car before the cars parted;" which means that, in the view of the jury, it was incumbent upon Bryant, the brakeman upon the ground—whose duty it was to give the signals for the motion of the engine—to have seen that the plaintiff reached the rear car before the signal was given which caused the engine to stop and permitted the cars to part.

Allan v. Grand Trunk R.W. Co., 4 O.W.N. 325, and Martin v. Grand Trunk R.W. Co., 4 O.W.N. 51, 27 O.L.R. 165, justify the finding that Bryant was in charge or control of the engine, within the meaning of sec. 3, sub-sec. 5, of the Workmen's Compensation for Injuries Act; and I think that the jury might well come to the conclusion at which they have arrived, that Bryant, who knew that it was the plaintiff's duty to go upon the rear car, ought to have seen that the plaintiff was safely there before giving the signal in question.

At the trial, counsel for the defendants did not desire the question of contributory negligence to be submitted to the jury; so that, in this view, the plaintiff is entitled to recover \$1,500, the amount awarded by the jury.

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MIDDLETON, J., IN CHAMBERS.

APRIL 12TH, 1913.

RE JANNISON.

*Life Insurance—Death of Beneficiary—Designation in Favour of New Beneficiary, by Will in General Language—Ineffectiveness—"Survivor"—"Surviving Children"—Ascertainment at Death of Insured—Preferred Beneficiaries—Insurance Act, R.S.O. 1897 ch. 203, secs. 151, 159—1 Edw. VII. ch. 21, sec. 2, sub-sec. 7—4 Edw. VII. ch. 15, sec. 7.*

Motion by the widow of William Jannison, deceased, for payment out of Court of \$1,000, the amount of an insurance upon his life, paid in by the insurance company.

F. D. Davis, for the widow.

J. R. Meredith, for the infant.

MIDDLETON, J.:—William Jannison was married three times. During the life of his second wife, Chattie, he had the insurance in question made payable to her. She died in 1902, childless.