

The result is that the judgment must be affirmed and the appeal dismissed with costs if the respondent company elects to pay for the extras, but otherwise without costs.

We cannot part with the case without expressing regret that the litigation should have been rendered necessary by the refusal of the appellant to agree to what appears to be the reasonable deduction from the contract price which was proposed by the respondent Herbert.

HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE and HON. MR. JUSTICE LEITCH, agreed.

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SUPREME COURT OF ONTARIO.

FIRST APPELLATE DIVISION.

NOVEMBER 3RD, 1913.

GOODWIN v. MICHIGAN CENTRAL RW. CO.

5 O. W. N. 198.

*Negligence — Damages — Death of Superannuated Minister—Estate Passing to Children — Expectation of Life — Beyond Normal—Evidence as to — Benefit from Continuance of Life—Probable Savings from Pension Received by Deceased — Computation of Damages — Present Worth of Five Years' Pension—Appeal—Costs.*

BOYD, C., awarded the children of a superannuated minister killed by the negligence of defendants and who was in receipt of a pension from the Superannuation Fund of his church, five times the amount of such annual pension as damages for his death, holding that his reasonable expectation of life was five years and the probability was from his financial position that the whole of such pension would have been saved by deceased.

SUP. CT. ONT. (1st App. Div.) varied above judgment by awarding in place of the sum awarded the present worth of the five annual instalments of pension.

Judgment affirmed with above variation, no costs of appeal to either party.

Appeal by the defendant company from the judgment of HON. SIR JOHN BOYD, C., pronounced 21st May, 1913, after the trial before him, sitting without a jury, at Welland, on that day.

The appeal to the Supreme Court of Ontario (First Appellate Division), was heard by HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE HODGINS.