(1898), 29 O.R. 139, 141; City of Kingston v. Drennan (1897), 27 S.C.R. 46, 55; Walton v. County of York (1879-81), 30 C.P. 217, 6 A.R. 181.

The respondents had failed to perform their statutory duty of keeping the road in repair, and the injuries of which the appellant complained were sustained by reason of that default.

The appeal should be allowed with costs, and judgment should be entered for the appellant for $150 with costs.

First Divisional Court.   February 21st, 1916.

McKINNON v. COUNTY OF WELLINGTON.

Highway—Nonrepair—Injury to Traveller at Night — Buggy Overturned by Ridges of Ice and Snow—Climatic Conditions—Evidence—Finding of Fact of Trial Judge—Credibility of Witnesses—Appeal—Liability of Municipal Corporation.

Appeal by the defendant, the Corporation of the County of Wellington, from the judgment of the Senior Judge of the County Court of the County of Wellington, after the trial of the action without a jury, in favour of the plaintiff.

The action was brought to recover damages for injuries sustained by the plaintiff by reason, as he alleged, of the default of the defendant corporation to keep in repair a road called the Eramosa road, under the jurisdiction of the county council.

The plaintiff met with his injuries while being driven by his hired man, after dark, on the 20th March, 1915, in a buggy drawn by a pair of horses, and the injuries were caused by the buggy being overturned.

The appeal was heard by Meredith, C.J.O., Garrow, Maclaren, Magee, and Hodgins, JJ.A.

H. Guthrie, K.C., for the appellant corporation.

C. L. Dunbar, for the plaintiff, respondent.

The judgment of the Court was delivered by Meredith, C.J.O., who said that the main contention of the appellant corporation was, that the state of the road was due to climatic conditions which affected not only that road but all the roads in the county; that the ridges of ice and dirt left in the centre of the road, the coming in contact with which of the horses and buggy was said by the respondent to have been the cause of the