

But the plaintiffs were not entitled to recover any damages, although the road was not in good repair for automobile traffic at the speed at which the plaintiffs were travelling—between 15 and 20 miles an hour. The hole spoken of was a “drop” at the bridge caused by a downward grade and heavy rains. The boy drove carelessly, and his carelessness caused the accident to his mother.

The plaintiffs were as a matter of law identified with their driver. The car was owned by the plaintiff James Roe, who knew that his son was prohibited by law, owing to his age, from driving a motor-vehicle. Yet it was by Roe's authority and with the concurrence and sanction of his co-plaintiff that the boy was driving the car. Even if the prohibition did not exist, the negligence of the driver affected his parents, as he was acting by their authority.

The Motor Vehicles Act, R.S.O. 1914 ch. 207, sec. 13, as amended by 7 Geo. V. ch. 49, sec. 10, provides that no person under the age of 16 years shall drive a motor-vehicle.

As the plaintiffs' son was, at the date of the accident, prohibited by the statute from driving a motor-vehicle, the use of the highway which he was making, at the instance of the plaintiffs, who were aware of his age, was unlawful.

Reference to *Cannan v. Bryce* (1819), 3 B. & Ald. 179, 184, 185; *Grand Trunk R.W. Co. of Canada v. Barnett*, [1911] A.C. 361, 369; *Greig v. City of Merritt* (1913), 24 W.L.R. 328; *Etter v. City of Saskatoon*, [1917] 3 W.W.R. 1110; *Babbitt on Motor Vehicles*, 2nd ed., para. 1087; *Koonovsky v. Quellette* (1917), 226 Mass. 474.

No liability attaches to a rural municipality such as these defendants to maintain their roads in such repair that they shall be safe for automobiles driving at the speed at which the plaintiffs were proceeding.

Dictum of Meredith, C.J.O., in *Davis v. Township of Usborne* (1916), 36 O.L.R. 148, at p. 151, explained.

Reference to *De Guise v. Corporation de Notre-Dame-des-Laurentides* (1916), Q.R. 50 S.C. 31, and *Fafard v. Cité de Quebec* (1916), *ib.* 226.

The plaintiffs' case failed because negligence on the part of the defendants was not established, and because the accident could have been avoided by the exercise of reasonable care by the plaintiffs' son, who, moreover, was prohibited by statute from driving a motor-vehicle.

*Action dismissed with costs.*