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No. 39

APPELLATE DIVISION.

JUNE 4TH, 1913.

FALCONER v. JONES.

Master and Servant—Injury to and Death of Servant—Workman Employed in Factory—Action by Widow under Fatal Accidents Act—Negligence—Person in Position of Superintendence—Contributory Negligence — Findings of Jury — Dangerous Work.

Appeal by the defendants from the judgment of MIDDLETON, J., based upon the answers of a jury to questions left to them at the trial, finding the defendants and their millwright guilty of negligence which caused the death of the plaintiff's husband, who was working for the defendants in their factory, through the starting of a shaft and pulleys when they ought not to have moved. The action was brought under the Fatal Accidents Act to recover damages for the death, and judgment was given at the trial in favour of the plaintiff for the recovery of \$1,650 and costs.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MA-GEE, and HODGINS, J.J.A.

H. H. Dewart, K.C., and B. H. Ardagh, for the defendants.
J. Jennings, for the plaintiff.

The judgment of the Court was delivered by MACLAREN, J. A.:—The defendants say that the accident was caused by the negligence of the deceased in interfering with the belt upon the shaft in question, in disobedience of the orders of the millwright.

The belt conveyed power from the main shaft in the basement of the factory through a small opening in the floor to a