

in point. The head-note is: "A boy was employed in a pottery; his duty was to make balls and hand them to women working at a machine, and he was forbidden to interfere in any way with the machinery. He sustained an injury through attempting to clean the machinery, while the woman was temporarily absent. It was held that the accident did not arise out of or in the course of his employment, and therefore he was not entitled to compensation under the Workmen's Compensation Act, 1897." See also *Beard v. London General Omnibus Co.*, [1900] 2 Q. B. 530.

The action will be dismissed. The plaintiff must pay the costs, if exacted.

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DECEMBER 31ST, 1908.

C.A.

BAINARD v. MICHIGAN CENTRAL R. R. CO.

*Master and Servant — Injury to Servant — Negligence—  
Dangerous Work—Want of Proper Appliances—Findings  
of Jury—Evidence—Fault of Servant.*

Appeal by defendants from judgment of MAGEE, J., upon the findings of a jury, in favour of plaintiff for the recovery of \$2,065.80 in an action for damages for personal injuries sustained by plaintiff owing to the alleged negligence of defendants, his employers. Plaintiff was a mechanic, engaged in putting together the different parts of a locomotive tender. While he was coupling two parts of the tank by a steel pin, the frame dropped down and crushed his arm and broke it. The plaintiff alleged that the proper appliances, i.e., blocks, were not furnished by defendants.

E. C. Cattanaeh, for defendants.

C. St. Clair Leitch, St. Thomas, and J. R. Green, St. Thomas, for plaintiff.

The judgment of the Court (MOSS, C.J.O., OSLER, GARROW, MACLAREN, MEREDITH, J.J.A.), was delivered by

MEREDITH, J.A.:—The judgment appealed against is supported by the finding of negligence in not using blocks in the doing of the work in which the plaintiff was engaged when injured, and by that finding only.