

REPORTS AND NOTES OF CASES.

Dominion of Canada.

EXCHEQUER COURT OF CANADA.

Burbidge, J.] McDONALD v. THE KING. [Nov. 2.

*Government railway—Accident to the person—Negligence of Crown's servants—Action by parent of deceased—Pecuniary benefit—Damages.*

Petition of right in the case of death resulting from negligence, and an action taken by the party entitled to bring the same under the provisions of Revised Statutes of Nova Scotia, 1900, c. 178, s. 5, the damages should be calculated in reference to a reasonable expectation of pecuniary benefit, as of right or otherwise, from the continuance of the life.

Such party is not to be compensated for any pain or suffering arising from the loss of the deceased; or for the expenses of medical treatment of the deceased or for his burial expenses, or for family mourning.

*Osborn v. Gillett*, L.R. 8 Ex. 88, distinguished.

*McInnis*, for suppliant. *Mellish*, for respondent.

Province of Ontario.

COURT OF APPEAL.

From Rose, J.] [Nov. 11.

AGRICULTURAL SAVINGS AND LOAN CO. v. LIVERPOOL AND LONDON AND GLOBE INS. CO.

*Fire insurance—Renewal—Prior insurance—Action—Parties—Mortgage.*

The renewal, as it is commonly called, of a contract of insurance is not a renewal or extension of the original contract, but a new contract based as far as applicable upon the original application and in accordance with the policy issued in pursuance thereof. Where, therefore, at the time of such a new contract by way of renewal no prior insurance is in force, the insurance is not avoided although when the original contract was entered into a prior insurance was in force, and this fact was not disclosed.

Judgment of ROSE, J., 32 O.R. 369; ante p. 11, reversed.

Mortgagees to whom loss is made payable "as their interest may appear" have a right of action upon the policy in their own name against the insurers, and are entitled to enforce payment to the extent of their interest.

*Aylesworth*, K.C., and *Bayly*, K.C., for appellants. *A. Hoskin*, K.C., and *A. E. Hoskin*, for respondents.