the plaintiff had to place a band. The disc of the wheel had holes in it, and while the plaintiff was putting on the band his thumb slipped through one of these holes, the result being that he lost his thumb. It was proved that though these wheels were sometimes made without holes, they were commonly made with them, the object being to reduce the weight of the wheel and consequent friction. In the defendants' mill there were machines of both sorts, and it did not appear that any complaint had previously been made with regard to the wheels with holes, the plaintiff himself stating that he had never complained of the machine, which he had used for thirteen years, because it had never entered his head that it was dangerous. On these facts the Divisional Court (Wills and Grantham, JJ.) had differed. Wills, J., holding that there was evidence to go to the jury that the machine was defective, and Grantham, J., being of the contrary opinion. The Court of Appeal also presented the somewhat unusual spectacle of differing in opinion. This difference of opinion is accounted for by Lord Esher, M.R., who dissented from Lindley and Lopes, L.JJ., by the fact of there being, as he thinks, two schools of thought in relation to cases of this kind, the one striving to prevent injustice to masters by construing Acts of this kind as strictly as possible; while the other school regards masters and servants as not on an equal footing, the danger of the employment always falling on the workman, who was, therefore, to be protected by a liberal construction of Acts intended for his benefit. He confesses that he has always been of the latter school, and, therefore, in the present case agreed with Wills, J. He goes so far as to say that although the machine be of the best construction invented, yet if a master permit the machine to be used by his workmen, knowing it to be dangerous, the master is liable. He considers, too, that the defect contemplated by the Act, is not a defect with reference to the purpose for which the machine is employed, but a defect with reference to the safety of the workman using it. Lindley and Lopes, L.JJ., however, take the opposite view, and lay it down that the defect contemplated by the Act, as one making the employer liable, is one due to the negligence of the employer, and that the negligence of the employer is a necessary element in order to make the employer liable; and the defect in the machine must be one having regard to the use to which it is to be applied, or the mode in which it is to be used. The defect may be one in the original construction of the machine, or arising from its not being kept up to the mark, which renders it unfit for the purposes to which it is applied, when used with reasonable care; or a defect arising, or existing, from the negligence of the employer. They say the Act is not directed against dangerous machines, but against the negligence of employers. And this is the view which must now be considered the proper exposition of the statute.

BENEFIT SOCIETY—INSURANCE—PAYMENT OF DEATH ALLOWANCE ACCORDING TO AGREEMENT WITH DECEASED—RIGHT OF ADMINISTRATOR.

Ashby v. *Costin*, 21 Q. B. D. 401, was an action by the personal representative to recover a sum of money claimed to be due from a friendly society of which the deceased was a member. The deceased had, upon making applica-