

Ontario. For full enquiry and accounting resort must be had to the administrative powers of the High Court. Review of English authorities.

Where upon an accounting by executors before a Surrogate Court Judge it was objected by the residuary legatees that a certain sum of money, not included in the executors' inventory of the assets of the estate, should have been included, and it appeared that the widow of the testator, who was one of the executors, claimed this sum as a gift from the testator in his lifetime,

Held, MEREDITH, J., dissenting, that the judge had no jurisdiction to pass upon the question thus raised; all that he could do was to report that a claim had been made that there was another asset of the estate, stating what it was which he was unable to investigate, and could therefore only approve of the rest of the accounts submitted to him.

Order of the Judge of the Surrogate Court of Halton reversed.

H. Guthrie, K.C., for executrix. *J. Bicknell*, K.C., and *J. W. Elliot*, for residuary legatees. *W. A. McLean*, for executor.

Boyd, C., Meredith, J., Anglin, J.]

[June 30.

DOYLE v. DIAMOND FLINT GLASS CO.

Executors and administrators—Fatal Accidents Act—Status of widow—Grant of administration pendente lite—Workmens Compensation Act—Negligence—Release of cause of action—Rights of mother—Expectation of benefit—Discovery of fresh evidence—Damages—New trial.

An action was brought to recover damages for the death of a workman employed by the defendants, owing to their alleged negligence. The plaintiff alleged that she was the widow of the deceased, but this was denied. She obtained, as widow, pendente lite, letters of administration to the estate of the deceased, and amendments were made by which she claimed as administratrix for her own benefit as widow and for the benefit of the mother of the deceased. The defendants denied negligence, denied the plaintiff's status as widow and administratrix, and also set up a release of the cause of action. The trial judge found against the plaintiff's status, but the jury found negligence, and assessed the damages at \$1,500, apportioning that sum equally between the plaintiff and the mother.

Held, 1. There was evidence upon which the jury were justified in finding that the man's death arose from the negligence of the defendants without blame on his part; and therefore that there should not be a nonsuit or a new trial upon this branch of the case; MEREDITH, J., dissented, being of opinion that there should be a new trial on the whole case.

2. The release given by the plaintiff should not, on the evidence, be held binding on her; ANGLIN, J., hesitating.

3. On the evidence, the mother had no sufficient interest in her son's