

FALCONBRIDGE, C.J.K.B.

JUNE 4TH, 1914.

CASSON v. HAIG.

Surgeon — Negligence — Malpractice — Finding of Fact — Damages.

Action against a surgeon to recover damages for permanent injury and disfigurement of the plaintiff through the injection of a fluid into his eye, which was alleged to be malpractice or negligence.

The action was tried without a jury at Cobourg.

E. G. Porter, K.C., and G. A. Payne, for the plaintiff.

R. McKay, K.C., and D. J. Lynch, for the defendant.

FALCONBRIDGE, C.J.K.B.:—The application of the crystal (which the defendant claims was cocaine) to the plaintiff's eye was instantly followed by excruciating pain to the patient and by an alarming appearance of the eye itself.

Two high experts testified that these conditions were post hoc, but not necessarily or even probably propter hoc, and were more likely due to poisoning from a small piece of wood or sawdust which had got into the plaintiff's eye the day before.

The coincidence in time and otherwise is too startling for me to accept this theory; and, in view of the general history of the case and the other medical testimony, I am driven to the conclusion that the defendant made a mistake and introduced into the eye, not cocaine, but a crystal of some corrosive or caustic substance; and accordingly I so find as a fact.

The defendant is, therefore, liable to the plaintiff.

The jury assessed the damages at \$1,200, a very reasonable amount, and I direct judgment to be entered for that sum, with costs.