

APRIL 21ST, 1911.

## STRATI v. TORONTO CONSTRUCTION CO.

*Explosion of Dynamite—Careless Management of Dangerous Material—Neglect of Directions as to Thawing—Exposure to Direct Heat without Screen—Connection between Neglect and Result—Inference from Evidence—Negligence.*

Appeal by the defendants from the judgment at the trial of TEETZEL, J., who found in favour of the plaintiff, in an action brought by him as administrator of Leone Lanata who, while in the defendants' employment, was on January 22nd, 1908, killed by an explosion of dynamite.

The appeal was heard by MOSS, C.J.O., GARROW, MACLAREN, MEREDITH, and MAGEE, JJ.A.

G. H. Watson, K.C., and S. Watson, for the defendants.  
W. N. Tilley, and T. K. Allan, for the plaintiff.

GARROW, J.A.:—The defendants carry on the business of railway construction, and at the time of Lanata's death were engaged in construction work for the Canadian Pacific Railway Co., in the county of Grenville. Lanata had been in their employment from the previous July, at first as a common labourer, then two months later he was promoted to the post of foreman-driller, and finally two months later he appears upon the payroll as "powder-monkey," for which it is said he received an additional wage of 25 cents per day.

For such dangerous material, the management of it in the shack or tent where the thawing took place seems to have been conducted in an exceedingly careless and even reckless manner, justifying the very strong remark in his evidence of Mr. Gilbert, an experienced contractor, that it amounted in his opinion to criminal negligence.

The shack was a primitive affair—a tent about 14 by 16 feet in size, reinforced with lumber, with a wooden door, not kept locked when Lanata who was in charge was out, into which anyone could go, and into which workmen, including the foreman Griffin, did go when they felt so inclined. Griffin himself had been in more than once on the day of the explosion, for the purpose of warming his feet, and other workmen had also been in. Lanata was an ignorant Italian, unable to read or write, with a very imperfect knowledge of English. His