

FIRST DIVISIONAL COURT.

MAY 17TH, 1918.

PASEL v. HAMILTON STREET R.W. CO. AND GRAND
TRUNK R.W. CO.

*Damages—Personal Injuries—Direct Money-loss—Loss of Earning
Power—Pain and Suffering—Possible Permanent Injury—
Evidence—Assessment by Jury of Sum Large but not Excessive.*

Appeal by the defendants from the judgment of LATCHFORD, J., upon the findings of a jury, in favour of the plaintiff, for the recovery of \$3,000 and costs, in an action for damages for personal injuries sustained by the plaintiff, while a passenger upon a car of the defendant street railway company, by reason of a collision between that car and a freight-engine of the defendant the Grand Trunk Railway Company.

The appeal was on the sole ground that the damages were excessive.

The appeal was heard by MACLAREN, MAGEE, and HODGINS, JJ.A., and KELLY, J.

S. F. Washington, K.C., and A. H. Gibson, for the appellants.
C. W. Bell, for the plaintiff, respondent.

HODGINS, J.A., in a written judgment, said that the plaintiff, a wire-drawer by trade, was a passenger on a street-car which collided with a freight-engine in King street, Hamilton, on the 28th January, 1917. He was thrown under the engine, burned by cinders, scalded by steam, injured on the head, and bruised all over. His right shoulder and arm were hurt, and he could not use them at all for some time; his left arm and shoulder were stiff and sore; his right leg cut from below the knee; and his back bothered him. At the time of the trial (November, 1917), he was still suffering from insomnia, headaches, and inability to use the right arm and shoulder. He was three or four weeks in bed, and at the end of six weeks went to work, sticking to it so as to make a living, but having to be dressed and undressed and assisted at the factory. After a further six or seven weeks, he became better, but found his earning power decreased by one quarter.

Several doctors were called, but did not agree as to the extent of the injury or the time at which complete recovery will be shewn.

The direct money-loss was agreed upon—\$500, apart from loss of earning power. That loss would be fairly estimated at \$600. There remained as allowed for pain and suffering and pos-