

appear not only that he knew of the special danger, but that he took upon himself and agreed to assume the risk of injury resulting therefrom.

7. The requirements of s. 9 of the Workmen's Compensation for Injuries Act are directory rather than imperative, and the omission to give the name and description of the person in defendant's service by whose negligence the accident occurred is a matter to be dealt with by an application for particulars and not by demurrer.

8. The refusal or neglect of defendants to provide medical or surgical attendance for the injured employee gives no cause of action: *Wennall v. Adney*, 3 B. & P. 247. Therefore the allegations in the statement of claim that the deceased came to his death as a result of injuries received and of the alleged neglect to provide medical or surgical care are demurrable. They make it appear that the injuries were not by themselves the cause of the death, but there is no right of action unless death resulted from the injuries alone. See s. 2 of c. 31, R. S. M. 1902.

9. Plaintiff in such an action has no right to claim for funeral expenses of the deceased.

10. That the time allowed by the statute for the commencement of the action had expired when the demurrer was argued was no objection to the allowance of amendments to the statement of claim, which did not seek to introduce any new or different causes of action. *Weldon v. Nesl*, 19 Q. B. D. 394, distinguished.

11. Under rule 453 of the King's Bench Act it is only in respect of some question of law which is fundamental or goes to the root of the cause of action or defence set up that there should be a separate argument before the trial. As to all other matters in the pleadings which may be objectionable, an application in Chambers under rule 326 to strike them out is the proper remedy.

Demurrer allowed with leave to the plaintiff to amend as he may be advised, but not to set up any claim for compensation on behalf of any other person, and on condition that he strike out the allegation that he is the heir-at-law of the deceased and the claim for funeral expenses and the allegation of neglect and refusal to provide medical and surgical attendance. Costs to be in the cause to defendants in any event.

*Potts and Hartley*, for plaintiff. *Aikins*, K.C., for defendants.

Perdue, J.]

GARDINER ? BICKLEY.

[Oct. 24.

*Demurrer - Argument of, before trial - King's Bench Act, Rule 453.*

This action was founded upon an agreement under which the defendants were to transfer to the plaintiff certain shares in companies and other property in consideration of which the plaintiff agreed to make certain payments in money, deliver certain stock and transfer to the defendants certain lands. The plaintiff alleged that he had conveyed the land, but