

and statement of claim by striking out all parts that refer to the claim of the other plaintiff, and in default that the action be dismissed with costs. Costs here and below to defendants in any event. Aylesworth, Q.C., for defendants. L. G. McCarthy, for plaintiffs.

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CERRI v. SUBSIDIARY HIGH COURT  
OF THE ANCIENT ORDER  
OF FORESTERS.

[BEFORE STREET, J., 10TH OCT., 1896.]

*Life insurance certificate—False statement as to age—Statement made in good faith—Sec. 6 of 52 Vict. ch. 32.*

Judgment in action tried with a jury at Toronto. Action by the widow of the late William Cerri to recover \$1,140 and interest upon a beneficiary certificate issued by defendants upon his life. The deceased obtained admission to the defendants' order by the untrue statement that he was born in 1847, and was therefore under 45 when he entered the order, the truth being that he was born in 1846, and was then over 45. Upon the faith of this statement defendants admitted him, and issued to him the certificate sued on. Had his age been

duly stated he could not have been admitted, because the 42nd law prohibits the admission of any person over 45, and he could not have effected the insurance, because none but members can be insured. The jury, however, found that the statement was made in good faith. Held, that section 6 of 52 Vict. c. 32 (O.), applies to benefit societies, and that the plaintiff was entitled to avail herself of its provisions, some action on the part of the order being necessary to terminate a membership once permitted. The deceased being at the time of his death a member in good standing, and there being nothing in defendants' laws depriving him of his rights, his certificate of insurance was subject only to the considerations applicable to ordinary contracts of that nature, and was binding on defendants, subject only to the reduction prescribed by section 6 in cases of a mistaken statement as to age. If the parties are unable to agree upon the amount payable according to this computation, the learned Judge will hear evidence to ascertain it. Subject to this judgment for plaintiff with costs. G. G. Mills for plaintiff. Aylesworth, Q.C., for defendants.