

ment under review condemns the defendant to pay plaintiff \$281.25 and to pay an annual rent of \$24 from the date of the judgment, payable quarterly, as for damages suffered by the plaintiff when in the employ of the defendant.

The action was based upon the Workmen's Compensation Act.

Defendant claimed that the accident was due to the gross negligence of the plaintiff; that that portion of the judgment which gave an annual rent for permanent partial incapacity was unfounded; that plaintiff had not proved any such incapacity; that the amount awarded was too high, and that the defendant could not be condemned to pay in quarterly instalments; that the accident did not arise in the course of the plaintiff's employment, seeing that the defendant had given his employees positive instructions to keep clear of the machine which caused the accident at the particular time when the accident was caused, and defendant prayed for the dismissal of the dismissal of the plaintiff's action.

Under the Workmen's Compensation Act, the fact that an accident may be due to the gross fault and negligence of the person who suffers the accident, is not a ground of rejecting the demand for compensation, but only a ground for lessening the amount of such demand. The Act does provide that if an employee voluntarily causes an injury to himself at his work, he has no claim; but otherwise, his gross and inexcusable negligence only results in diminution of the damages.

The evidence with regard to the negligence of the plaintiff is very contradictory. When the machine, which was a derrick placed upon rails, was about to begin to move to change its place, it was the duty of the plaintiff, during