

accident. The guard might not have prevented plaintiff from being taken off his feet as he was, but with a guard he could not have fallen into the gearing or got his arm entangled in and squeezed by it in the way shewn.

There appears no fair escape from the . . . conclusion that the blame for the accident rests upon the defendants' neglect to comply with the provisions of the Factories Act. And upon the authorities it follows that plaintiff is entitled to claim compensation from defendants for the injury which he sustained by reason of such negligence on their part: *Sault Ste. Marie Pulp and Paper Co. v. Myers*, 33 S. C. R. 23; *Moore v. Moore*, 4 O. L. R. 167, 1 O. W. R. 290; *McIntosh v. Firstbrook Box Co.*, 8 O. L. R. 419, 3 O. W. R. 924, 10 O. L. R. 526, 6 O. W. R. 237.

The damages awarded are not excessive, having regard to the nature of the injuries and their effect upon the permanent usefulness of the arm. The medical gentlemen who testified at the trial as to its condition were unable to hold out hopes of its ever becoming as strong or as useful as before.

Appeal dismissed with costs.

OSLER and MEREDITH, J.J.A., gave reasons in writing for the same conclusion.

GARROW and MACLAREN, J.J.A., also concurred.

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OCTOBER 1ST, 1906.

C.A.

McLEOD v. LAWSON.

*Damages—Interlocutory Injunction—Dissolution—Time for Applying for Reference—Evidence—New Agreement—Costs—Stay of Proceedings—Appeal.*

Motion by defendant Lawson to vary judgment of 29th June, 1906 (ante 213), by directing a reference as to damages occasioned by interlocutory injunctions, and by reserving