

SECOND DIVISIONAL COURT.

APRIL 14TH, 1916.

McLAUGHLIN v. TORONTO R.W. CO.

Damages—Personal Injuries—Negligence—Street Railway—Injury to Passengers by Accidental Falling of Sign-board—Direct Impact—Additional Injury from Shock—Assessment of Damages—Evidence—Findings of Trial Judge—Appeal—Liability of Street Railway Company in Respect of Injuries other than those Caused by Direct Impact—Proximate Cause of Additional Injury.

Appeal by the defendants from the judgment of FALCONBRIDGE, C.J.K.B., 9 O.W.N. 407.

The appeal was heard by MEREDITH, C.J.K.B., RIDDELL LENNOX, and MASTEN, JJ.

D. L. McCarthy, K.C., for the appellants.

E. G. Morris, for the plaintiffs, respondents.

LENNOX, J., read a judgment in which he stated that the injuries complained of by the plaintiffs, husband and wife, were alleged to have been occasioned by the falling of a metallic sign-board when they were travelling upon one of the defendants' cars. There was direct impact in each case; the husband received a severe wound upon his head; and the wife a slight scalp wound; but she alleged that she also received a severe mental shock; that she was pregnant at the time; and that the visible injury, combined with the mental shock, caused a miscarriage and necessitated a surgical operation. She was present when a surgeon dressed her husband's wound, immediately after the accident; and the defendants contended that the shock or mental disturbance and subsequent illness were mainly due to this circumstance. The defendants also attempted to prove that the woman was not pregnant at the time of the occurrence.

The action came on for trial with a jury, but the jury was dispensed with by consent.

The liability of the defendants for the injuries directly caused by the impact was not disputed.

The trial Judge found for the plaintiffs, awarding \$75 damages to the husband and \$900 to the wife.

There was nothing in the evidence which would justify interference with the conclusions reached by the trial Judge; and the appeal should be dismissed with costs.

RIDDELL, J., concurred.