

6. If you answer "Yes" to the last question, in what did his negligence consist? In not seeing that the machine was properly guarded.

7. Or was the casualty which resulted in the plaintiff's injuries a mere accident for which no one is responsible? No.

8. At what sum do you assess the amount of compensation to be awarded to the plaintiff in case he should be held entitled to recover? The sum of \$85.

Their answer to the sixth question amounts to a finding that there was at hand a "splitter" or "divider" which the plaintiff could have used as a kind of guard for the saw, if he had been so inclined. There was abundant evidence to support such finding.

It is evident from the amount of damages which they have awarded, \$85, being about half of the damage actually proved, that there was an effort on the part of the jury, unconsciously, to carry out the Quebec rule and make the plaintiff bear part of his own damage, so that I should have been glad if I could have seen my way to carry out their apparent wishes in entering the verdict, but their answer to the question regarding the plaintiff's negligence inexorably prevents any recovery by the plaintiff, under our law.

In any event, it would have been a hollow victory for the plaintiff, as I could not have certified to prevent a set-off of costs.

I, therefore, dismiss the action with costs, if exacted.

MIDDLETON, J.

JANUARY 23RD, 1914.

#### HAIR v. TOWN OF MEAFORD.

*Municipal Corporations—Local Option By-law—Action to Restrain Council from Passing—Interim Injunction—Balance of Convenience—Speedy Trial—Rule 221—Liquor License Act, sec. 143a.*

Motion by the plaintiff to continue an ex parte injunction restraining the defendants from passing a local option by-law.

A. E. H. Creswieke, K.C., for the plaintiff.

W. E. Raney, K.C., for the defendants.