

their seeking relief as against their co-defendants was by way of counterclaim. If these two defendants desired any relief as against plaintiff, they might specially ask for such relief by their prayer. If they desired relief, as well, against their co-defendants, then such relief must be asked by way of counterclaim as consequent on the matters pleaded in connection with plaintiff's claim.

Leave given defendants to amend in accordance with the foregoing views within one week, in which event this appeal to be dismissed. Costs of appeal to be costs in the cause. If defendants should not so amend, then this appeal to be allowed with costs. If amendments made, plaintiff and co-defendants to have 3 weeks to reply.

OCTOBER 2ND, 1907.

DIVISIONAL COURT.

DEWEY v. HAMILTON AND DUNDAS STREET R. W.
CO.

Damages—Fatal Accidents Act—Action by Married Woman for Death of Aged Father—Reasonable Expectation of Pecuniary Benefit from Continuance of Life—Reduction of Verdict—New Trial.

Appeal by plaintiff from judgment of RIDDELL, J., 9 O. W. R. 511, dismissing action, upon motion for nonsuit, after findings of jury in favour of plaintiff with damages assessed at \$2,000.

A. M. Lewis, Hamilton, for plaintiff.

J. W. Nesbitt, K.C., for defendants.

THE COURT (MULOCK, C.J., ANGLIN, J., CLUTE, J.), ordered that if the parties should agree to a reduction of the damages to \$500, there should be judgment for plaintiff for that amount with costs. If the parties should not agree, new trial ordered, and costs of former trial and of this appeal to be costs in the cause.