

knew that for years the public had avoided the public road because of its dangerous character. They knew the state of the weather and they knew, if they knew anything, that a thaw had set in some days before, that the thaw was general throughout the township, and they must have known quite well that in that season of the year thaws were to be expected and had already begun at that particular time. Nevertheless they paid no attention to the matter and allowed the condition to exist which culminated in the accident.

It appears that it would have cost only a couple of dollars to have made this road safe. The township it is said is a poor one, no doubt that is correct, but it must have been exceedingly poor to be unable to afford that particular outlay of a couple of dollars. It does not appear that the road in other parts of the township were in disrepair. So far as appears this must be the only condition of the kind existing at this spot in the whole township. The rest of the township appeared to be in good repair, because an inspection had been made extensively over the roads of the township. Also a report had been made from time to time of the condition of this cut. We, therefore, impute knowledge to him, (the inspector), and through him to the council as a whole, of the probable dangerous condition. He must have known that the thawing would have brought about this dangerous condition of affairs which caused this accident.

I am also reminded that this was a main road between two villages and was the regular travelled road and was one of the main arteries of travel of the whole township, so that there were special circumstances for keeping it in proper repair.

We, therefore, think this appeal must be dismissed with costs.

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HON. SIR G. FALCONBRIDGE, C.J.K.B.      OCT. 11TH, 1913.

STEINBERG v. ABRAMOVITZ.

5 O. W. N. 107.

*Pleading—Statement of Defence—Leave for Amendment by Defendant—Otherwise Judgment for Plaintiff.*

Appeal by the plaintiff from an order of MR. HOLMESTED, Senior Registrar, sitting for Master in Chambers, re-