

The Ontario Weekly Notes

Vol. IV.

TORONTO, MARCH 7, 1913.

No. 25

COURT OF APPEAL.

FEBRUARY 26TH, 1913.

*DARKE v. CANADIAN GENERAL ELECTRIC CO.

Master and Servant—Injury to and Death of Servant—Liability—Negligence—Contributory Negligence—Unauthorised and Voluntary Act—Findings of Jury—Evidence—Workmen's Compensation for Injuries Act—Person Intrusted with Supervintendence—Defective System.

Appeal by the defendants from the order of a Divisional Court, 3 O.W.N. 817, reversing the judgment of MULOCK, C.J. Ex., 3 O.W.N. 368, and directing that judgment be entered for the plaintiff for \$1,800.

The appeal was heard by GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A., and LENNOX, J.

G. H. Watson, K.C., for the defendants.

D. O'Connell, for the plaintiff.

The judgment of the Court was delivered by HODGINS, J.A.:—Counsel for the appellants urged very strongly that the acts of Darke, if not actually contrary to orders, were under the circumstances, unauthorised and voluntary. The generator had been set up and finally clamped down by the mechanical department, and had been turned over to the electrical department for testing; and the point raised is, that to allow any one to interfere with and revise the work finished by the proper department, i.e., the mechanical department, would disorganise the working of any industry and lead to unfortunate results, as, undoubtedly, this act of Darke's did. Whether this would be a

*To be reported in the Ontario Law Reports.