

favour of the plaintiff against both defendants, upon the findings of the jury at the trial at Toronto, in an action brought by Ada Lambert, mother of Kenneth Lambert, to recover \$10,000 damages, under the Fatal Accidents Act and the Workmen's Compensation for Injuries Act, for the death of her son caused by coming in contact with the electric wires of the defendants, on the 13th March, 1914. The judgment appealed from awarded the plaintiff \$2,700 damages with costs; claims for indemnity made by each defendant against the other were dismissed without costs. The city corporation appealed against the judgment dismissing its claim for indemnity over against the Interurban Electric Company.

The appeals were heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

C. M. Colquhoun, for the appellant city corporation.

D. Inglis Grant, for the appellant company.

B. N. Davis, for the plaintiff, respondent.

RIDDELL, J., read a judgment in which he said that the predecessors in title of the defendant the Interurban Electric Company had a contract with the predecessors in title of the defendant city corporation, under which they erected a pole in St. Clair avenue. Upon this pole and its brethren were to be strung a wire or wires for the carriage of electricity of high tension; and, in the nature of things, it would be necessary for employees of the electric company to mount the pole to examine, adjust, and repair the wires. The city corporation absorbed the street, and on the 9th November, 1912, required the company to move this pole some feet back—and this was done. After this, the city corporation erected a pole not far from the one mentioned, and guyed it by a guy-wire running close to the company's pole and wound round the city's pole, in contact, by negligence, with a lightning arrester.

On the 13th March, 1914, the deceased Lambert, in the service of the company, was directed by his foreman to mount the company's pole and release certain wires. He did so, cut a wire of the company's in which there was a high tension current, and, his body coming near the city's guy-wire, a grounding was effected through his body, the guy-wire, and the lightning arrester—the current passed through him, and he was killed.

So far as the company was concerned, the jury were justified in finding negligence against it, through its foreman, who testified that the arrangement of wires was a trap; that the reason