

The action is brought against Wallberg under the Workmen's Compensation for Injuries Act, and as the answer to the third question is that the deceased was not at the place and doing the work assigned to him when the accident happened, the plaintiff cannot recover against the defendant Wallberg.

There was not in my opinion any evidence of negligence on the part of Lowes. There was no duty owed by him to any person unless upon the premises as of right either as owner or tenant or licensee, or in some other way. There was no invitation on the part of Lowes either expressed or implied to anyone, apart from his contract with Wallberg, to go near this wall so as to be in danger of its falling. This is not the case of a trap or of any danger to which a person not aware of it might be lured or attracted. Lowes in good faith, gave the work to an independent contractor, Wallberg, a competent man skilled in that kind of wrecking business.

There was no evidence that could properly be submitted to the jury of any interference by Lowes with the work of the contractor. Nothing was done by him that would seem to shew liability on his part in the circumstances of this case. It is stated that Lowes was on the premises day by day, but he was not on the premises within sight of the dangerous wall. The wall could not be seen by Lowes from his own home or in the ordinary course of coming and going. If the deceased was not in the place where he ought to have been under his arrangement with his employer Wallberg, that is a defence for Lowes as well as for Wallberg. There was no duty on the part of Lowes to the deceased where the deceased was at the time the accident happened.

Action dismissed with costs if demanded. Twenty days' stay.