

city or town, where perhaps it has no land other than the rails, poles, wires, etc., on the public highways, the result must be the same. It must be the full value of these fixtures to the company, because they must be valued as an integral part of the whole. It plainly means, that it is not to be valued without reference to the whole of which it is a part, but as an essential part of the whole—as something without which the whole would be incomplete. It is to be valued, in short, at what it is worth to the debtor, being solvent, as a part of the whole, so that he, being solvent, would be willing to let it go at that value in payment of a debt.

Appeal dismissed with costs.

APRIL 10TH, 1902.

DIVISIONAL COURT.

MORRISON v. GRAND TRUNK R. W. CO.

*Discovery—Examination of Officer of Corporation—Railway Company—Engine-driver—Rules 439, 461.*

Appeal by plaintiff from order of STREET, J., in Chambers (*ante* 180), reversing order of Master in Chambers, which allowed plaintiff to examine for discovery, as an officer of defendants, an incorporated company, the driver of an engine attached to a train of which the plaintiff's husband was the conductor in charge at the time of his death, in an action against the company for negligence causing such death. Upon the appeal the book of the defendants' rules, which was not before STREET, J., was put in evidence.

J. G. O'Donoghue, for plaintiff.

D. L. McCarthy, for defendants.

BOYD, C.—The engine-driver was practically in charge of the train after the conductor was killed, and he is the man who presumably knows at first hand how the accident happened, and is in this regard the proper person to make discovery. He is also an "officer" of the company, recognized as such and so named in the Railway Act, R. S. C. ch. 190, sec. 85 (1) and (4); see also 51 Vict. ch. 29, sec. 214 (g), and secs. 243, 292. The rules of the company indicate that both driver and conductor are in charge of a train.