

Another exception is, where a statute has been passed with the object of protecting a particular class of persons, the members of that class may recover payments made by them. Thus the fees of a sheriff are fixed by statute, and an overpayment may be recovered: *Woodgate v. Knatchbull* (1787), 2 T.R. 148, *Dew v. Parsons* (1819), 2 B. & A. 562. So money paid in excess of the legal interest allowed by the statutes against usury could be recovered back: *Ashley v. Reynolds* (1731), 2 Stra. 915; *Bromley v. Holland* (1802), 7 Ves. 3; as now is the case where a moneylender charges a higher rate of interest than the Court sanctions in an application under the Moneylenders Act, 1900 (Imp.): *Saunders v. Newbold* (1904), 74 L.J.C. 120, (1905), 1 Ch. 260, affirmed *sub nom. Samuel v. Newbold* (1906), 75 L.J.C. 705, [1906] A.C. 461.

Province of Manitoba.

COURT OF APPEAL.

PETITT v. CANADIAN NORTHERN R. CO. (No. 2).
(11 D.L.R. 316.)

Howell, C.J.M., Perdue, and Cameron, JJ.A.] [May 6.

Damages—Death—Pain and suffering—Accidental death—Recovery by decedent's family—Elements.

In an action by the widow and administratrix of the deceased for damages under the Manitoba Act, for compensation to families of persons killed by accident (R.S.M. 1902, ch. 31), the measure should be for the widow's pecuniary loss sustained because of the death, in a sum that will give her the physical comfort which she had at the time of her husband's death out of his labour earnings to be continued during the expectancy of life, subject to the accidents of health and employment; but not covering the physical and mental suffering of the deceased nor the mental sufferings of the plaintiff for the loss of her husband.

Blake v. Midland, 18 Q.B. 93, and *C.P.R. Co. v. Robinson*, 14 Can. S.C.R. 105, referred to; *Petitt v. Canadian Northern R. Co.* (No. 1), 7 D.L.R. 645, varied.

Statutes—Statutes adopted from England—Effect of English decisions.

A statute practically copied from an English Act is taken subject to judicial decisions upon it given in England.

Trimble v. Hill, 5 A.C. 342, referred to; *Petitt v. Canadian Northern Northern R. Co.* (No. 1), 7 D.L.R. 645, varied.