

above named, viz.:.....any injury the cause or manner of which is unknown or incapable of direct or positive proof;.....any injury resulting wholly or partially, directly or indirectly from intoxication or while intoxicated.....voluntary over-exertion, exposure or unnecessary danger....."

That the cause and manner of occurrence of the death of plaintiff's husband is unknown and incapable of direct or positive proof and that the said death was due wholly and entirely to exposure by the deceased to unnecessary danger; that the defendants are, therefore, only indebted to plaintiff in the sum of \$100.00, which such defendants did on the 10th of September, 1903, tender to plaintiff, who refused it. Wherefore defendants pray that the said tender be declared sufficient; that plaintiff's action for the surplus be dismissed with costs including costs of exhibits, and that said amount tendered be compensator *pro tanto* with the costs to be taxed herein.

THE FACTS OF THE CASE.

Considering the following facts:—McKercher was on train No. 2 of the Canadian Pacific Railway which left Regina, eastward bound, on the evening of the 23rd of June, 1903; Dr. Knight, also on said train, was called by the train conductor to see if McKercher—then standing at the top of the steps on the platform of about the third car from the rear end of the train—was in his, the doctor's opinion, intoxicated; on Dr. Knight giving his opinion that McKercher was sober, the conductor caught McKercher by each shoulder, jerked him forward, then with his leg and foot scooped the feet of McKercher clear of the platform, with the result that McKercher fell or settled down on the ground beside the train. This ejection took place about two miles east of Regina.

The train proceeded eastward and at Balgonie crossed another train moving westward, which latter reached the vicinity of the ejection in from twenty to forty-five minutes after it occurred.

The engineer, when about three-quarters of a mile distant from it, saw a dark object on the track, whistled and shut off steam; from 200 to 250 yards distant from the object, the engineer became certain that it was a human being, put on the emergency brake and threw open his whistle; both he and the fireman saw McKercher raise himself on the left arm; the train could not be stopped in time and McKercher was run over and instantly killed.

The evidence does not disclose further details of the circumstances which accompanied this ejection.

Considering that the cause of said fatal injury is not unknown or incapable of indirect proof, it is conclusively established that death resulted from being run over by said train; considering as to the defendant's pretension of McKercher having exposed himself to unnecessary danger, that intoxication is not pleaded by the amended plea; but the experience of McKercher as a railway employee, and the fact that it was daylight make it highly improbable that he voluntarily lay down between the rails; considering that the violence of his ejection from the train and the fact that he had not moved from the place where he was ejected create reasonable and strong grounds for the con-

viction that he had been stunned and incapacitated by said violent ejection; considering that the presumption in law is against the fact of McKercher having thus exposed himself to unnecessary danger, and the burden rested upon the Company to establish such defence affirmatively; judgment given for plaintiff with costs.

From this judgment, the appeal was now taken, in which judgment was given by Sir Louis Jette, who said that the main condition of the policy was that if the cause of death could not be positively proved, then one-twentieth of the amount of insurance would be payment in full. There is positive evidence as to the cause of death; death did not result from some unknown cause. Respondent's husband was seen to raise himself just immediately before he was run over and killed. The cause of death is, therefore, known, and is positively proved, and the full amount of the policy was recoverable.

The decision of the court below was, therefore, affirmed, and the appeal dismissed.

MONEY-LENDING "BANKS."

Heavy Losses of English investors in Money-lending Businesses masquerading as Banks—Lax Law and System—Proposed Remedial Legislation.

Allusion has already been made in our columns to the agitation in England, which has followed the failure of the Charing Cross Bank, for the restriction of the use of the term "bank" to *bona-fide* banking institutions. In the current number of the Financial Review of Reviews, Mr. Felix Cassel, K.C., M.P., a well-known counsel in banking cases, discusses the subject at length. He finds the crux of the evil in so-called banks, which merely carry on a money-lending business. During the past 20 years, he writes, between £3,000,000 and £4,000,000 of money on a moderate calculation have been lost in money lending businesses or analogous ventures, masquerading as banks. By far the greater part of this loss has fallen on the industrial class, on clerks, employees and small shop-keepers—those, in fact, who are least able to afford it; and dire has been the resulting tragedy of broken lives and impoverished homes. The most recent example was the crash of the Charing Cross Bank, which overswept hundreds of depositors with ruin. Anyone in the United Kingdom can, on payment of £30 annually, take out a banker's licence and is entitled to put up a brass plate calling his office a bank. He can do this as easily as he can take out a pedlar's licence or a dog's licence; the only difference is in the amount payable. It follows that anyone is allowed to describe himself as a banker who can afford to pay for the licence. In the same way, any seven signatories to a memorandum of association can register a limited company, take out a banker's licence for it and call it a bank, even if its sole purpose be to carry on a money-lending business with the money of its depositors.

HOW SO-CALLED BANKS HAVE FAILED

From Official Receivers' reports, Mr. Cassel digs out some rather interesting disclosures of the way