

surrounding circumstances into account, including loss in trimming—if that is a necessary result of driving the piles—and the average shortage of a foot or so allowed on the work in place. He heard the evidence, and had the advantage of noting the manner of giving it. Unless he manifestly erred, unless his conclusions were unquestionably contrary to the evidence, his findings of fact should not be disturbed.

MIDDLETON and ORDE, JJ., agreed with LENNOX, J.

Appeal dismissed with costs.

FIRST DIVISIONAL COURT.

FEBRUARY 18TH, 1921.

*PARLOV v. LOZINA AND RAOLOVICH.

Motor Vehicles Act—Collision of Motor Vehicle with Street Car—Injury to Passenger in Motor Vehicle—Non-paying Guest of Driver—Want of Ordinary and Reasonable Care—Negligence—Breach of Contract to Carry Safely—Vehicle Driven by one of two Co-owners—Liability of both—Motor Vehicles Act, secs. 11, 19.

Appeal by the defendants from the judgment of MIDDLETON, J., 47 O.L.R. 376, 18 O.W.N. 139.

The appeal was heard by MEREDITH, C.J.O., MAGEE, HODGINS, and FERGUSON, JJ.A.

R. T. Harding, for the appellants.

T. P. Galt, K.C., for the plaintiff, respondent.

HODGINS, J.A., in a written judgment, said that he agreed with the judgment appealed from in so far as it awarded the plaintiff damages against the defendant Lozina, the co-owner of the car and the driver of it at the time the plaintiff, who was a passenger in it, was injured.

The defendant Raolovich must be held liable as well. The ownership of the defendants was a joint tenancy, and there did not seem to be any doubt that each was an owner, albeit a joint owner. The liability of "the owner" is created by sec. 19 of the Motor Vehicles Act, R.S.O. 1914 ch. 207, amended by 7 Geo. V. ch. 44, sec. 14, and 8 Geo. V. ch. 37, sec. 8. There was no sug-

* This case and all others so marked to be reported in the Ontario Law Reports.