

FIRST DIVISIONAL COURT.

APRIL 23RD, 1918.

*GOUGH v. TORONTO AND YORK RADIAL R.W. CO.

Costs—Taxation—Injury to Vehicle Insured by Insurance Company—Negligence of Railway Company—Loss Paid by Insurance Company to Owner of Vehicle—Action by Insurance Company in Name of Owner against Railway Company—Recovery of Judgment for Damages and Costs—Right of Insurance Company to Tax Costs of Action against Railway Company—Indemnity.

Appeal by the defendants from the order of MIDDLETON, J., in Chambers, ante 45.

The appeal was heard by MACLAREN, MAGEE, HODGINS, and FERGUSON, JJ.A.

J. H. Moss, K.C., and W. Lawr, for the appellants.

J. M. Ferguson, for the plaintiff, respondent.

THE COURT dismissed the appeal with costs.

SECOND DIVISIONAL COURT.

APRIL 23RD, 1918.

*NEWCOMBE v. EVANS.

Will—Testamentary Capacity—Undue Influence—Evidence—Execution of Will—Testimony of Attesting Witnesses—Findings of Trial Judge—Appeal—Costs.

Appeal by the defendant from the judgment of CLUTE, J., 12 O.W.N. 266.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.

D. L. McCarthy, K.C., for the appellant.

J. H. Rodd, for the plaintiff, respondent.

Further evidence was taken, pursuant to an order made by the Divisional Court on the 26th October, 1917: 13 O.W.N. 109.

MEREDITH, C.J.C.P., in a written judgment, said that, in view of the additional evidence adduced by the plaintiff, by leave