

Works, L.R. 5 Ex. 221, 234, L.R. 5 H.L. 418, 457; O'Rourke v. Commissioner for Railways, 15 App. Cas. 371; and In re Christie and Toronto Junction, 22 A.R. 21.

BRITTON, J.

NOVEMBER 23RD, 1911.

SMITH v. EXCELSIOR LIFE INSURANCE CO.

Life Insurance—Policy—Condition—Assured Taking Employment on Railway—Knowledge of Agent of Insurance Company—Acceptance of Premiums by Company—Authority of Agent—Liability of Company.

Action upon a life insurance policy.

John R. Logan, for the plaintiffs.

H. E. Rose, K.C., for the defendants.

BRITTON, J.:—This action is brought by Jean Smith, the widow and the administratrix of the late Charles Francis Smith, and by Zillah Smith, his mother, to recover \$1,000, being the amount of a policy issued by the defendants upon the life of Charles Francis Smith. The policy is dated the 16th May, 1898, and is a contract that, upon the payment of twenty annual premiums of \$23.35 each, annually in advance, at the head office of the defendants, the defendants will pay to Zillah Smith, mother of Charles Francis Smith, \$1,000, at the expiration of twenty years from the date of the policy.

This policy was subject to the statements in the application being true; and as to proof of the age of the assured and to other things not necessary to mention, as no point is raised in reference to them by the defendants in this action. The following was one of the terms of the policy printed on its face: "Receipts for premiums. No payment to any person except in exchange for a premium receipt, duly signed by the president, vice-president, or managing director, shall be binding upon the company, and all payments made to an agent of the company by the assured, or any one representing him, without receiving a premium receipt signed as above, shall be deemed to have been received by the said agent as agent for the assured, and not for the company."

Then, in addition to what is on the face of the policy, in the body of it, it is made subject to certain conditions and provisions