

At common law everybody is responsible, stating the general rule, for injury caused to another by his fault. Taking into consideration, however, the fact that the wrongful causing the death of a person necessarily entails damage on certain other persons with whom the deceased person is connected by filiation or marriage the statute Code gave to such persons a special remedy.

In determining the extent of the damages, it becomes necessary to consider what, but for the accident, would have been the reasonable prospects of life, work and remuneration of the deceased; and also how far these, if realized, would have conduced to the benefit of those claiming compensation: *Grand Trunk Ry. Co. v. Jennings*, per Lord Watson, 13 A.C. 304.

The rather embarrassing question arises here as to whether the insurance received by the deceased person's parents should be taken into consideration, in whole or in part, in the assessment of damages. What is the damage caused to these relatives if it is not the want or diminution of pecuniary aid, which the law deems they would have received from the deceased? For sorrow of the mind, "solatium doloris," or moral advantages lost, are not to be considered. Is it not reasonable to consider the insurance received by the parents an equivalent for such absence or diminution of pecuniary aid? Is it true that the person committing the wrong would then benefit by an indemnity paid by a third party; but it must be observed that the person liable is so liable only to the extent of the pecuniary loss sustained, and only on account of an accident, which itself brought about the acceleration of the payment.

The Courts in the Province of Quebec, after some hesitation and controversy, have laid down the rule that insurance should be taken into consideration. The application of the rule, however, seems rather difficult; as it appears to be a complex problem to establish the extent to which deduction is to be made for insurance money received.

With respect to insurance against accidents the whole