

Meredith, C.J., acted was a sufficient basis for an interlocutory injunction. *Quinn v. Leathem*, [1901] A. C. 495, referred to. Appeal dismissed with costs.

BOYD, C.

MARCH 25TH, 1903.

CHAMBERS.

BURKHOLDER v. GRAND TRUNK R. W. CO.

Damages—Apportionment—Widow and Infant Children of Person Killed in Railway Accident—Compensation—Payment into Court—Other Provisions for Widow.

Motion by plaintiffs for judgment in terms of a settlement between the parties by which defendants agreed to pay \$4,800 to plaintiff as compensation for the death of the husband of the adult plaintiff and the father of the infant plaintiffs.

W. W. Osborne, Hamilton, for plaintiffs.

D. L. McCarthy, for defendants.

F. W. Harcourt, official guardian, approved of the settlement on behalf of the infant plaintiffs, and asked the Court to apportion the \$4,800 between the adult and infant plaintiffs.

BOYD, C.—In case of death by accident the damages are usually apportioned by the jury among those entitled to share as provided by R. S. O. ch. 135. But in case the matter does not go before a jury, but a sufficient sum is paid into Court to satisfy the action, then it may be brought summarily before a Judge to make just distribution. The fact should not be overlooked in this case that some provision has been made for the widow by an insurance of \$1,000 in her favour. It is fair in this case to allow the widow one-fourth of the \$4,800, that is, \$1,200, and to each of the four infants \$900. *Sanderson v. Hardreson*, 36 L. T. N. S. 847, and *Bulmer v. Bulmer*, 25 Ch. D. 413, referred to. Judgment as agreed upon and apportioning the money as stated. The infants' shares to be paid into Court, and \$200 a year to be paid out half-yearly to the widow for their maintenance for three years.