

The appeal was heard by MEREDITH, C.J.C.P., BRITTON, RIDDELL, and LATCHFORD, JJ.

T. Mercer Morton, for the appellant.

J. H. Rodd, for the defendants, respondents.

THE COURT dismissed the appeal with costs.

HIGH COURT DIVISION.

LENNOX, J.

FEBRUARY 24TH, 1919.

HAWLEY v. OTTAWA GAS CO.

Negligence—Injury to Person by Explosion of Gas—Subsequent Death from Pneumonia—Proximate Cause of Death—Findings of Jury—Nonsuit.

Action by the widow and administratrix of the estate of Allan J. Hawley to recover damages for his death, said to have resulted from the negligence of the defendants.

The action was tried with a jury at an Ottawa sittings.

A. E. Fripp, K.C., for the plaintiff.

George F. Henderson, K.C., for the defendants.

LENNOX, J., in a written judgment, said that the defendants had completed or professed to complete, in Hawley's cellar, certain work which they were engaged by Hawley to perform, early in the afternoon of the 24th September, 1918; and on the evening of that day, there being a slight odour of gas in the house—which the plaintiff had noticed for several hours—Hawley went to the cellar and there lighted a match; there was an explosion of gas; Hawley's eyes were severely injured, and he sustained other injuries. He was taken to a hospital, and made a good recovery, except as to one of his eyes. He was about to leave the hospital, upon instructions of the attending physician, when he became very ill, with pneumonia it was supposed, and died on the 13th October, 1918.

The plaintiff alleged that her husband's death was the result of the explosion, and that the explosion was caused by the defendants' negligence in the execution of their contract.

There may have been some slight evidence of connectino between the accident and the death in the suggestion of a physician who was called as a witness, that "weakened vitality" might