

DECEMBER 7TH, 1914.

MILLER v. INTERNATIONAL HOTEL CO.

Master and Servant—Injury to Servant — Negligence — Explosion in Hotel Kitchen—Defect in Hot Water Plant—Liability at Common Law—Workmen's Compensation for Injuries Act, R.S.O. 1897 ch. 160, sec. 6 (a)—Findings of Jury—Finding by Appellate Court on Evidence—Judicature Act, sec. 27(2).

Appeal by the defendant company from the judgment of the Senior Judge of the District Court of the District of Algoma, upon the findings of a jury, in favour of the plaintiff, in an action brought in that Court to recover damages for personal injuries sustained by the plaintiff by reason of an explosion in the defendant company's hotel, in which she was a waitress.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

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

R. C. H. Cassels, for the plaintiff, respondent.

The judgment of the Court was delivered by MEREDITH, C.J.O.:—The action arises out of the same explosion as is in question in *Junor v. International Hotel Co.* (ante). . . . Though the witnesses were not the same, the evidence was substantially the same as that given in the *Junor* case, except that the manager, Pollock, was called as a witness for the defence and testified that he had nothing to do with "the manner of connecting up the system," and offered no suggestions and gave no instructions; that he exercised no supervision over Gallagher, but depended upon Gallagher to see that everything was right; that he did not understand anything about steam-fitting, and never saw anything afterwards to indicate defects, although the system was in use continually from the 28th April until the explosion occurred, and that he saw nothing to indicate danger.

The jury in answer to questions made the following findings:—

Q. 1. Was the defendant guilty of any negligence that occasioned the injuries complained of? A. Yes.

Q. 2. If so, in what did the negligence consist? A. The evidence of Mr. Gallagher shews that he knew that the system was