

Subject to the variations indicated, the appeal should be dismissed, and the appellants should pay the costs of the appeal and of the motions made before Hodgins, J.A., and Ferguson, J.A., respectively.

*Appeal dismissed.*

SECOND DIVISIONAL COURT.

DECEMBER 18TH, 1918.

\*O'DELL v. TORONTO R.W. CO.

*Negligence—Collision upon Highway between Automobile and Street-car—Injury to Automobile and Driver—Action Brought by Driver—Addition of Owner as Co-plaintiff—Evidence—Findings of Jury—Operation of "Backing" Street-car—Control from Front—Question for Ontario Railway and Municipal Board—Negligence of Conductor—"Misjudging Course of Automobile"—Failure of Driver of Automobile to Give Signal when Turning—Reversal of Judgment for Plaintiffs—New Trial Refused.*

An appeal by the defendants from the judgment of the County Court of the County of Wentworth in favour of the plaintiffs for the recovery of \$350 and costs, in an action in that Court, tried with a jury, for damages in respect of injury caused to the plaintiff Thomas O'Dell by a collision of an automobile which he was driving, with a car of the defendants.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, SUTHERLAND, and KELLY, JJ.

D. L. McCarthy, K.C., for the appellants.

W. Morrison, for the plaintiffs, respondents.

The judgment of the Court was read by RIDDELL, J., who said that the plaintiff Thomas O'Dell was driving an automobile north on the easterly side of Yonge street, Toronto, at a moderate rate; in front of him was a street-car going in the same direction; this car turned westerly on a "Y" at Woodlawn avenue, then took the north wing of the "Y" and backed toward Yonge street. The plaintiff also turned to the west, and the car and his automobile came in collision.

The jury found that the accident was due to the negligence of the defendants, which consisted in "having the car controlled from the wrong end and in the conductor misjudging the course