

gence alleged was in effect that the conductor of the train had invited the deceased to alight when and where he did.

The judgment was for \$4,000 damages and costs.

The appeal was heard by RIDDELL and LENNOX, JJ., FERGUSON, J.A., and ROSE, J.

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

T. N. Phelan, for the plaintiff, respondent.

RIDDELL, J., with whom ROSE, J., agreed, was of opinion, for reasons stated in writing, that there was no conduct on the part of the conductor which could be construed into an invitation to alight, and that the appeal should be allowed and the action dismissed.

LENNOX, J., and FERGUSON, J.A., were of opinion, for reasons stated by each in writing, that the finding of the jury that the death was caused by the negligence of the defendants—"by the conductor not remaining at the door of the car until the train stopped"—was warranted by the evidence, and that the appeal should be dismissed.

The Court being divided, the appeal was dismissed with costs.

SECOND DIVISIONAL COURT.

FEBRUARY 26TH, 1917.

KONKLE v. KONKLE.

Contract—Joint Dealings of Uncle and Nephew in Mining Lands and Company-shares—Moneys Paid by Uncle—Agreement as to Sale of Shares—Alleged Breach—Conversion of Shares—Failure to Prove—Evidence—Damages.

Appeal by the defendant from the judgment of MIDDLETON, J., ante 242.

The appeal was heard by RIDDELL and LENNOX, JJ., FERGUSON, J.A., and ROSE, J.

W. S. MacBrayne, for the appellant.

C. W. Bell, for the plaintiff, respondent.

RIDDELL, J., read a judgment in which he said that the plaintiff was the uncle of the late J. W. Konkle, who was an engineer,