

McCREA

1920

\*Nov. 18.

V.

## NAPIERVILLE JUNCTION RAILWAY CO.

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL  
SIDE, PROVINCE OF QUEBEC.

*Railway—Negligence—Station—Truck on the platform—Accident—  
Arts. 1053, 1056. C.C.*

APPEAL from the judgment of the Court of King's Bench, Appeal side, province of Quebec (1) affirming the judgment of the trial judge, Monet J., which dismissed the appellant's action.

The appellant brought an action against the respondent company for \$10,000 for herself and \$10,000 for her three children, as damages for the death of her husband who was killed by a train of the respondent company. The station agent at Napierville is also the agent of an express company. On the arrival of each train, he placed a truck on a earth elevation near the tracks and placed in it the goods unloaded from the train, in order that the persons interested could take delivery of these goods. The appellant's husband, who was expecting some goods, went near the truck while speaking with a friend, and, in order to examine the contents, placed himself between the truck and the rails. He was then struck by a locomotive and instantly killed.

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\*PRESENT:—Idington, Duff, Anglin, Brodeur and Mignault JJ.

(1) Q.R. 29 K.B. 414.

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The trial judge dismissed the action, holding that the appellant's husband was entirely at fault. The Court of King's Bench affirmed this judgment.

The Supreme Court of Canada, at the conclusion of the argument of the appellant's counsel and without calling in the respondent's counsel, dismissed the appeal.

*Appeal dismissed with costs.*

*F. J. Bisailon K.C.* for the appellant.

*F. L. Beïque K.C.* and *Fred. Beïque K.C.* for the respondent.

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