

## TRUST GENERAL DU CANADA v. ST. JACQUES

1931

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

\*Feb. 26.  
\*May 11.

*Negligence—Liability—Accident—Master—Insufficient lighting—Art.  
1053 C.C.*

APPEAL by the defendant appellant from the decision of the Court of King's Bench, appeal side, province of Quebec (1), affirming the judgment of the Superior Court, Désaulniers J. and maintaining the plaintiff respondent's action in damages.

The respondent, an old man 69 years of age, was, prior to the 5th December, 1928, in the employ of the appellant as a night watchman at the factory formerly occupied by the Canadian Footwear Co., Limited, which was then in liquidation. Among the respondent's ordinary duties was that of carrying the ashes out of the boiler room and depositing them outside the building in a shed adjoining. For this purpose it was his custom to make use of a wheelbarrow, and he was obliged, after crossing the main room in the basement, to mount an inclined gangway about 18 inches wide to reach the platform on which the ashes were to be dumped. Early in the morning of the 5th of December, the light which should have illuminated the inclined gangway had failed, and in attempting to push his barrow up this inclined plane to the platform, the respondent, owing to the lack of light, misjudged his position; the wheelbarrow toppled from the gangway and precipitated the respondent to the floor. As a result of his fall he suffered a broken leg, which has left him permanently crippled. The trial judge found that the accident was due to the failure of the electric light which should have been kept in good condition, and that the appellant's failure to do so imposed upon it the liability for the respondent's injuries, which he fixed at the sum of \$3,000; which judgment was affirmed by the appellate court.

The Supreme Court of Canada dismissed the appeal, but was of the opinion that it was a case for division of dam-

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\*PRESENT:—Duff, Newcombe, Rinfret, Lamont and Cannon JJ.

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ages, the appellant to bear four-fifths; the respondent, however, to bear his own costs of both appeals, but to be entitled to the costs of the action.

*Appeal dismissed.*

*Alex. Gérin-Lajoie K.C.* for the appellant.

*C. A. Archambault K.C.* for the respondent.

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