THE CANADIAN RUBBER CO.

v.

KARAVOKIRIS.

1909

*Nov. 4, 5.

Negligence—Injury to employee—Disobedience—Enforcing rules of factory—Verdict against weight of evidence—Misdirection—New trial—Costs.

APPEAL from the judgment of the Superior Court, sitting in review at Montreal(1), which affirmed the judgment of the Superior Court, District of Montreal, by which the plaintiff's action was maintained with costs.

The action was brought by the respondent against the company for the recovery of compensation for injuries sustained by him while employed in their factory. The jury found that the company was at fault for laxity in the enforcement of its regulations made to secure the safety of employees and that the plaintiff had contributed to the accident which occasioned the injuries sustained by him by disobedience to the orders given to him in pursuance of those regulations. The jury estimated the damages to the plaintiff at $3,500, made a deduction of $2,000 therefrom on account of the fault which they attributed to him and returned a verdict against the company for $1,500. Upon this verdict judgment was entered against the company by the trial judge and this judgment was affirmed by the Court of Review.

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*PRESENT:—Girouard, Davies, Idington, Duff and Anglin JJ.

(1) Q.R. 36 S.C. 425.

1909

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The principal grounds urged by the company on their appeal to the Supreme Court of Canada were that the jury had been misdirected by the trial judge and that the findings and verdict were against the weight of evidence.

After hearing counsel on behalf of the parties, on the appeal, the Supreme Court of Canada directed that a new trial should be had between the parties, that there should be no costs allowed on the appeal to the Supreme Court of Canada, and that the costs in the courts below should follow the event of the new trial.

Appeal allowed without costs.

T. Chase Casgrain K.C. and *Heneker K.C.* for the appellants.

Barnard K.C. and *Jacobs K.C.* for the respondent.