

## CANADIAN NATIONAL RAILWAYS v. POMERLEAU

1930

\*Feb. 19.

\*April 10.

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

*Negligence—Railway—Level crossing—Speed—Thickly peopled place—  
Railway Act, R.S.C., 1927, c. 170, s. 309*

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

Action was brought by the respondent both personally and in her quality of tutrix to her five minor children, for the sum of \$25,000, damages resulting from the death of her husband, Alfred Nadeau, as a result of a collision between an electric car belonging to the appellant and an automobile belonging to and driven by one Cournoyer, the respondent's husband at the time a passenger in the automobile.

The Superior Court gave judgment for \$12,000 and this judgment was maintained in the Court of King's Bench, Mr. Justice Hall and Mr. Justice Rivard dissenting.

The sole question in the appeal before this court was whether the trial judge was bound to find on the evidence adduced that the sole direct cause of the tragedy was the negligence of Cournoyer, or whether the appellant company, knowing the crossing to be a dangerous one, failed to take reasonable precautions to avoid any accident.

The judgment of the Supreme Court of Canada dismissed the appeal with costs, thus affirming the judgments awarding \$12,000 damages to the respondent.

*Appeal dismissed with costs.*

*Arthur Vallée K.C.* for the appellant.

*J. P. Lanctôt* for the respondent.

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