

1922

EMILE BELANGER (PLAINTIFF).. APPELLANT;

*Feb. 22, 23.

*Mar. 29.

AND

CANADIAN CONSOLIDATED

RUBBER COMPANY (DEFEND-}

ANT).....}

RESPONDENT.

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

*Workmen's Compensation Act—Machine—Absence of guard—Duty of
employer—Inexcusable fault—R.S.Q. (1909) art. 7325.*

The appellant, while working on a machine by feeding cotton into it between two rollers, had both hands caught and crushed necessitating their amputation. The maximum compensation under the "Workmen's Compensation Act" was admitted by the respondent company: but the appellant claimed a greater compensation under article 7325 R.S.Q. on the ground of "inexcusable fault" of the respondent especially in not having provided the machine with protection devices. The respondent had installed an apparatus of wire for stopping the machine within four seconds. No other safety device was supplied by the manufacturers of the machine. Although the practicability of a certain guard may have been established at the trial, the respondent company, having an expert engineer continuously working at the discovery of new safety devices, had found none suitable for this machine. The provincial government inspector had never given to the respondent any notice to provide a safety guard. A somewhat similar accident had previously happened in the defendant's factory but no evidence was adduced as to the exact cause of that accident.

Held, Idington J. dissenting, that the "inexcusable fault" of the respondent company had not been established.

*PRESENT:—Sir Louis Davies C.J. and Idington, Anglin, Brodeur and Mignault JJ.

Per Idington J. (dissenting).—The appellant was ordered to do a dangerous work, of which he had no experience, without being given any instructions in contravention with the company respondent's own regulations; and, also, there were existing protection devices in use when the Calendar machine, or its principle, was applied to doing other work than the one done in respondent's factory.

Judgment of the Court of King's Bench (Q.R. 32 K.B. 44) affirmed, Idington J. dissenting.

1922
BELANGER
v.
CANADIAN
CONSOLIDATED
RUBBER
COMPANY.

APPEAL from the judgment of the Court of King's Bench, appeal side, Province of Quebec (1) reversing the judgment of Surveyer J. and dismissing the appellant's claim for augmentation of the maximum compensation under the "Workmen's Compensation Act."

The material facts of the case are fully stated in the above head-note and in the judgments now reported.

Charlemagne Rodier K.C. for the appellant.—There is an "inexcusable fault" of the respondent company: as the appellant had no experience in the work he was ordered to do; the machine was dangerous; the appellant had received no previous instructions; there were no protection devices; the floor was slippery; there had been a previous similar accident.

A. Chase-Casgrain K.C. for the respondent.

THE CHIEF JUSTICE.—This action is one brought under the "Workmen's Compensation Act" of Quebec. The plaintiff claimed not only the ordinary maximum compensation, which indeed was admitted by the defendant company, but alleging "inexcusable fault" on the part of the company claimed \$25,000 damages for the injuries sustained by him. These injuries

1922
BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.
The Chief
Justice.

consisted of the loss of both his hands. They were caught and crushed in the machine which he was working, necessitating their amputation. For three months previous to the accident he had been working at the back of the same machine receiving the cotton as it passed through, but on the occasion of the accident he had been put to work at the front of the machine feeding the cotton into it between two rollers. The machine in question is called a Calendar and is electrically driven. It consists of two rollers of about 24" (inches) in diameter which turn reversely on each other, and cotton in sheets or layers for the purpose of being pressed to an even surface is passed between them. They revolve at a maximum rate of about four revolutions per minute.

The "inexcusable fault" is alleged to have consisted mainly in the fact that the machine was defective in not having been provided with proper safety and protection devices for the workmen employed in running it. Other faults were alleged, but the absence of additional protective devices to those already provided was the main and chief one relied on and the only one in my opinion under which the plaintiff could hope possibly to succeed.

Their Lordships of the Judicial Committee in the appeal of *Montreal Tramways Co. v. Savignac* (1), stated as their opinion that

it was unnecessary and probably undesirable to attempt a definition of inexcusable fault

leaving the question to be determined in each case as it arose.

(1) [1920] A.C. 408.

If the plaintiff had succeeded in shewing that the work in which he was engaged when injured was dangerous work, and that there were other known protective devices for workmen engaged on Calendar machines of which the company could and should have known, and had neglected to provide, the question before us would have assumed an entirely different aspect. But the evidence seems clear that there were no other protective devices known or in use which the company could have or should have provided. As a fact the company had an engineer who was continually working, looking up new devices for safety apparatus. None so far had been found applicable to this machine. The manufacturers who supplied these Calendar machines did not provide any such additional safety device, other than the apparatus of wire for stopping the machine within four seconds. No evidence was given that any safety guard was in use anywhere on machines of the sort in question here. The government inspectors whose duty it is to see that employers were warned to guard dangerous machines when practicable had never given the defendant any notice to provide any additional safety guard on this machine, and I cannot find any evidence establishing that there was anywhere a practicable additional guard in existence or use which should have been known to the defendant company and installed by them.

The work in which the plaintiff was engaged was not specially dangerous work. On the contrary, I have had great difficulty in determining how the plaintiff could have had his hands drawn in between the rollers unless by gross carelessness or neglect on his own part.

1922
BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.
The Chief
Justice.

1922

BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.
The Chief
Justice.

He was a workman who had been working on and about the machine which caused the accident for a period of about three months, although he had not previously to the day of the accident been employed in actually feeding the cotton between the slowly revolving rollers.

Under all the circumstances I cannot find "inexcusable fault" on the part of the company in not having provided an additional guard for the protection of the workmen feeding the cotton between the rollers.

I would therefore dismiss this appeal.

LDINGTON J. (dissenting)—The appellant having served as a shipping clerk for some years was given employment in one of the respondent's manufacturing shops by way of taking away from the rear of a Calendar machine pressed cotton which had passed through between the rollers of said machine.

The said machine consists of two rollers which are placed one above the other and each twenty-five inches in diameter at the rate of four revolutions a minute.

It was stated in argument and not denied and seems borne out by the evidence that a party engaged, as appellant was, when working at the rear of the machine, could neither see nor learn from where he stood when so engaged how the work was done of feeding the cotton into the front of the machine.

Hence the three months he was so engaged were of no service in way of instructing him how to feed the machine and the dangers to be avoided in doing so.

He was only twenty-five years of age when he was suddenly, on returning to work at one P.M. of the 3rd April, 1919, directed by the foreman over him to proceed to the front part of the machine and feed the cotton into it, and he obeyed the order so given.

About half an hour after he had begun doing so his right hand was drawn in between the said rollers and in the effort to extricate it he slipped on the damp floor and so fell that his left hand also was drawn in between the said rollers.

His cries of distress arrested the attention of others and some one of them stopped the machine.

As a result of the accident both his hands had to be amputated and thus he is crippled for life.

He was given no instruction of any kind, or warning or help, as any young inexperienced beginner ought to have had, as is abundantly testified by more than one witness.

There was no guard or protective appliance of any kind in front of the machine. Such devices are in use in many ways and of different kinds when the Calendar machine, or its principle, is applied to doing other work than the particular kind done in respondent's factory. One witness pretends he has seen the like machine at work elsewhere when serving same purposes as in the respondent's shop and that without any guard other than the appliance used to stop the machine, which only proves how reckless some manufacturers can be.

Electric current was the motive force used to operate the machine in question. It could be cut off by pulling a wire at the side of the machine, about three feet or more from where the appellant was standing when engaged at feeding the cotton into the machine.

I am unable to understand people who refer to this as a safeguard or means of protecting the person engaged in feeding the machine. It obviously is not, and when once such a person's hands, or single hand, is drawn in he cannot even stop the machine.

1922
BELANGER
v.
CANADIAN
CONSOLIDATED
RUBBER
COMPANY.
Idington J.

1922

BELANGER
v.
CANADIAN
CONSOLIDATED
RUBBER
COMPANY.

Idington J.

There had been a similar accident about eight months previously in the use of this machine, whereby the man engaged as appellant was, on the occasion in question herein, had lost part of his hand. Yet no means were actually taken by the respondent to apply any safeguard.

Apparently it is cheaper for people like respondent to pay the occasional small toll extracted from them by the terms of the "Workmen's Compensation Act" than to invent or apply any invention known to safeguard employees.

The appellant sued respondent for damages resulting to him and the learned trial judge held that there was inexcusable fault on the part of respondent leading to this accident and thus the \$2,500 limit of the "Workmen's Compensation Act" was no bar to his recovery as if suing at common law. He assessed the damages on that basis at \$17,500.

I unhesitatingly agree with his finding that there was inexcusable fault.

I am not so clear as to the finding of inexcusable fault having the necessary legal consequence of damages being recoverable to the full extent that would have been allowable had the "Workmen's Compensation Act" never been passed.

I was tempted to think in the course of the argument here that there might be implied in the following quotation from the "Workmen's Compensation Act",

the Court may reduce the compensation if the accident was due to the inexcusable fault of the workman, or increase it if it is due to the inexcusable fault of the employer

the graduating of the scale of damages proportionately to the gravity of inexcusableness thus brought in question.

However, though taking several objections in their factum to the measure of damages, counsel for the respondent do not present any such view or indeed any view we have given heed to here for many years past.

Even when the amount exceeded that, we might, if trying the case or in sitting in appeal below have allowed; yet mistakes of that kind should not be entertained here and thereby encourage needless litigation.

Agreeing, as I do, with Mr. Justice Tellier's view of the case, I think that possibly respondent missed a good chance when it failed to act on his suggested reduction.

The measuring of damages such as appellant has to endure by what a young man of twenty-five is earning to my mind is quite fallacious.

And before parting with this case I cannot forbear quoting a sentence taken from the respondent's own regulations, which reads as follows:

Les employés devront recevoir de leurs contremaîtres des instructions complètes avant de faire fonctionner aucune machine et ils devront bien comprendre ces instructions.

If the non-observance of this injunction had been properly and consistently acted upon I can hardly imagine respondent's foreman, who placed appellant where he met such disaster as in question herein, would have dared to venture on such a foolhardy step as ordering an ignorant and inexperienced youth to feed such a machine as in question, even if it had been protected or guarded as it was not.

I would allow this appeal with costs throughout and restore the learned trial judge's judgment.

1922
BELANGER
v.
CANADIAN
CONSOLIDATED
RUBBER
COMPANY.
Idington J.

1922

BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.

Anglin J.

ANGLIN J.—The material facts sufficiently appear in the judgments delivered in the Court of King's Bench and in the opinion of my brother Mignault, in whose conclusions as well as his appreciation of the presentation of the appellant's case by Mr. Rodier I fully concur.

Ordinary liability for the maximum compensation under the "Workmen's Compensation Act" having been admitted by the defendants, it is only necessary to consider the appellant's claim for augmentation of that amount under Art. 7325 (2) based on his allegation that the accident, in which he was very seriously injured, was due to "inexcusable fault" of his employer.

In *Montreal Tramways Co. v. Savignac* (1) their Lordships of the Judicial Committee said:—

It is unnecessary and probably undesirable to attempt a definition of inexcusable fault.

I shall not essay the formulation of a definition that is probably impracticable.

The only alleged fault on the part of the defendants which could with any degree of reasonableness be pressed as inexcusable was the omission to provide an efficient guard to prevent the hands of the operator being drawn into the Calendar machine at which the plaintiff was injured. The practicability of such a guard is perhaps sufficiently established by the evidence. But no guard was furnished by the manufacturer of the machine and there is no satisfactory evidence that such a guard was in use anywhere on machines intended for the purpose for which the machine in question was used. The Government Inspectors, whose duty it is to see that employers are warned to

(1) [1920] A.C. 408.

guard dangerous machines when practicable, had not notified the defendants to guard this machine. The evidence falls short of establishing that there was a practicable guard for it which was, or should have been, known to the defendants.

1922
BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.
Anglin J.

An accident, said to have been somewhat similar to that now under consideration, had happened in the defendant's factory some time before and the evidence warrants the inference that it must have been known to them. But the circumstances of this accident are not stated and it does not appear that it was due to a cause which the defendant could or should have provided against. For aught that is shewn this former accident may have been wholly due to carelessness on the part of the workman. Indeed, in the present case it is difficult to conceive how the plaintiff's hand could have been drawn between the rollers unless he was, at least momentarily, inattentive to what was an obvious danger. So obvious was it that it seems to me to be idle to attempt to found a charge of inexcusable fault on the placing of an adult of ordinary intelligence at the work to which the plaintiff was assigned, however limited his experience.

Having regard to all the circumstances the plaintiff in my opinion has failed to establish a case of inexcusable fault on the part of the defendants.

BRODEUR J.—I concur with Mr. Justice Mignault.

MIGNAULT J.—Le savant avocat de l'appelant—qui a plaidé sa cause avec beaucoup de talent et aussi avec une franchise qui lui fait honneur—nous a fait remarquer que les honorables juges qui ont été saisis de cette cause se sont également divisés. Ce qui explique peut-être cette différence d'opinion,

1922

BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.
Mignault J.

c'est qu'indubitablement il y a eu faute de la part de l'intimée, mais ce n'est pas là la question à décider. Il s'agit de déterminer si cette faute peut être qualifiée de faute inexcusable aux termes de l'article 7325 S.R.P.Q. (1909), et on peut la croire quasi-délictuelle au sens des articles 1053 et 1054 du code civil, sans en conclure qu'elle soit réellement la faute inexcusable dont parle l'article 7325.

L'expression "faute inexcusable" nous vient de la loi française des accidents du travail. Dans un sens, toute faute est inexcusable par là même qu'elle est faute. Mais le législateur entend ici une faute d'une gravité exceptionnelle, quelque chose de plus qu'une faute même lourde, on dit même quelque chose qui se rapproche de l'intention criminelle (Daloz, *Répertoire pratique*, vo. Accidents de Travail, no. 226), et dans la discussion du projet de loi au sénat français, on a proposé cette expression comme rendant bien l'idée du législateur que la faute dont il s'agit devait être d'une telle gravité qu'elle fût sans excuse. En effet, on entend généralement par faute inexcusable une faute qui est plus près du dol que de la faute lourde (Baudry-Lacantinerie, *Louage*, no. 2270). Il importe de tenir compte de l'origine de cette expression quand on se demande s'il y a eu, dans une espèce particulière, une faute inexcusable du patron ou de l'ouvrier.

Cela étant dit, on peut se dispenser de définir cette faute. Le conseil privé d'ailleurs n'a pas voulu tenter cette définition dans la cause de *Montreal Tramways Co. v. Savignac* (1), et les circonstances varient tellement dans les espèces qui viennent devant les tribunaux qu'aucune formule ne pourrait être imaginée qui conviendrait absolument à chacune de ces espèces.

(1) [1920] A.C. 408.

Le besoin d'une définition se fera moins sentir du reste si on peut indiquer certains éléments que l'on devra trouver dans chaque cas où l'on prétend que l'ouvrier ou le patron a été coupable d'une faute inexcusable. J'accepte les éléments suggérés par M. Sachet (*Accidents du travail*, 6e éd., tome 2, no 1439), et que l'honorable juge de première instance consigne dans son jugement: 1° volonté d'agir ou d'omettre; 2° connaissance du danger pouvant résulter de l'action ou de l'omission; 3° absence d'une cause justificative ou explicative.

Et j'ajoute qu'en exagérant la faute du patron—il est peu probable qu'on exagère celle de l'ouvrier et peut-être à bon droit—on en arriverait facilement à rendre la majoration de l'indemnité due à l'ouvrier la règle au lieu de l'exception qu'elle doit être sous l'empire de toute loi des accidents du travail. Car cette loi est fondée sur l'idée du risque professionnel (Fuzier-Herman, Répertoire, vo. *Responsabilité civile*, nos. 1459 et suiv.), risque que le patron et l'ouvrier doivent assumer dans la mesure prescrite par le législateur, et ce n'est que lorsque ce risque a été augmenté par une faute inexcusable attribuable à l'un ou à l'autre qu'il convient de diminuer ou d'augmenter l'indemnité normale que comporte l'évaluation, dans les conditions ordinaires, de ce risque professionnel.

L'espèce que nous sommes appelés à juger me fournit l'occasion d'appliquer les principes que je viens d'exposer. Bélanger, depuis longtemps à l'emploi de l'intimée dans le département d'expédition des marchandises, n'était que depuis trois mois employé aux machines. Jusqu'au jour de l'accident il recevait, derrière une machine connue sous le nom de "calendar", le coton destiné à être enduit d'une couche de caoutchouc et qui passait entre de grands rouleaux ou cylin-

1922

BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.

Mignault J.

1922

BELANGER
- v. -
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.

Mignault J.

dres tournant en sens inverse à une vitesse au maximum de quatre révolutions par minute. Ce jour-là, vers une heure de l'après-midi, l'employé qui faisait fonctionner cette machine, c'est-à-dire qui faisait passer entre les rouleaux une bande de coton large de quatre pieds, ayant manqué tout à coup, le contre-maître le fit remplacer par Bélanger. Ce fut un malheur pour celui-ci, car une demi-heure plus tard, il se faisait prendre d'abord la main droite et ensuite la main gauche entre les rouleaux, avec le résultat qu'on dût lui amputer les deux mains. Il poursuit maintenant sous l'empire de la loi des accidents du travail, réclamant l'augmentation de l'indemnité normale à raison de la faute inexcusable de son patron. L'intimée a payé à l'appelant \$2,500, le maximum de l'indemnité normale, avec \$99.45 pour les frais d'action. Toute la question maintenant est de savoir s'il y a eu faute inexcusable entraînant majoration d'indemnité. La cour de première instance, présidée par l'honorable juge Surveyer, a décidé en faveur de l'ouvrier, jugeant qu'il y avait lieu de fixer l'indemnité comme si l'accident en question était régi par le droit commun, et elle a donné à Bélanger une augmentation d'indemnité de \$15,000.00. Sur appel à la cour du Banc du Roi, les honorables juges Martin et Greenshields ont décidé qu'il n'y avait pas eu faute inexcusable du patron, le troisième juge, l'honorable juge Tellier, étant d'un avis contraire, mais le juge Tellier a exprimé l'opinion que l'indemnité devait tout de même être basée sur l'échelle contenue à la loi des accidents du travail, et il n'aurait accordé au demandeur qu'une augmentation de \$12,926.84. Il y a donc cette question subsidiaire à résoudre au cas où je serais d'avis que nous avons bien ici un cas de faute inexcusable du patron.

J'ai dit qu'il y a eu indubitablement faute de l'intimée, mais il ne faut pas se laisser influencer par cette faute au point de conclure à l'existence d'une faute inexcusable qui est, je le répète, l'exception sous l'empire de la loi des accidents du travail. Ainsi c'était une faute de mettre à l'ouvrage sur cette machine un ouvrier inexpérimenté dans ce genre de travail, sans lui adjoindre quelqu'un pour veiller à ce qu'il s'y prît de façon à ne point s'exposer au danger, du moins pendant ses premiers essais. C'était encore une faute du patron si le plancher où se tenait Bélanger était glissant comme il le prétend, mais d'autres témoins le nient, ou si le coton qu'il devait faire passer entre les rouleaux présentait des plis qui pouvaient saisir sa main et l'entraîner avec le coton dans ces rouleaux. Mais il ne s'ensuit nullement que cette faute fût inexcusable, et il ne peut résulter que confusion si on ne fait abstraction ici de la théorie de la faute d'après le droit commun, car nous sommes en présence d'une loi qui y fait exception.

Pour savoir si dans l'espèce cette faute était inexcusable, il faut se rappeler encore ce que j'ai appelé les éléments de M. Sachet. Y a-t-il eu en tout cela volonté d'agir ou d'omettre, connaissance du danger pouvant résulter de l'action ou de l'omission, et absence d'une cause justificative ou explicative? Je ne le crois pas, du moins quant aux fautes que j'ai signalées. Il y a eu imprudence, surtout en laissant travailler un ouvrier inexpérimenté, et cette imprudence, tout en étant une faute, n'est pas une faute inexcusable au sens de la loi des accidents du travail.

L'appelant a abandonné à l'audition devant nous la faute qu'il imputait au patron de n'avoir pas pourvu à un appareil pouvant amener l'arrêt de la machine

1922
BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.
Mignault J.

1922

BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.

Mignault J.

en cas d'accident. L'appareil, une broche à la portée de l'ouvrier, s'y trouvait et aurait immobilisé les rouleaux dans l'espace de quatre secondes.

Mais l'appelant insiste et impute à l'intimée une faute qu'il qualifie d'inexcusable, parce qu'elle n'aurait pas placé un appareil protecteur devant la machine pour empêcher que les mains de l'ouvrier n'y fussent entraînées, et cela d'autant plus qu'un accident semblable était arrivé à un ouvrier quelques mois auparavant, signalant ainsi au patron le danger que présentaient ces rouleaux sans appareil protecteur.

Je suis bien prêt à reconnaître que si l'appelant pouvait dire que dans les autres usines on munit ces machines d'appareils protecteurs, ou qu'on peut facilement les en munir sans entraver le travail, et si l'accident antérieur avait été connu du patron et faisait clairement voir le danger de laisser fonctionner ces machines sans ces appareils, on aurait réuni les éléments dont parle M. Sachet, et partant il y aurait faute inexcusable.

Mais la lecture attentive de toute la preuve me convainc qu'il n'est pas d'usage de poser ces appareils protecteurs sur des machines semblables. D'autres machines, comme celles qu'on trouve dans les buanderies, en ont, mais pas les rouleaux dont il s'agit ici. Et peut-on facilement les en munir sans entraver le travail? Cela ne me paraît pas démontré. Des témoins disent que les ingénieurs de la compagnie ont mis la question à l'étude sans réussir à trouver l'appareil dont parle l'appelant. Et il faut se garder d'affirmations comme celles que fait M. Guyon, sous-ministre du travail à Québec. Car si M. Guyon pouvait facilement fabriquer un tel appareil, comme il le dit, pourquoi n'en a-t-il pas ordonné l'installation avant l'accident, comme il avait le pouvoir de le faire?

Nous trouvons dans ce cas, comme dans les espèces semblables, des gens qui après l'événement ont bien des suggestions à faire. Le malheur, c'est qu'ils n'aient pas fait ces suggestions en temps utile; et en supposant qu'ils pouvaient eux-mêmes proposer un remède facile et pratique, rien ne démontre que ce remède fût connu de l'intimée avant l'accident.

Reste l'accident arrivé au nommé Hannah quelques mois avant l'accident de Bélanger. J'ai lu attentivement la déposition de Hannah. Je ne trouve pas qu'il fasse voir comment l'accident lui est arrivé. Il a pu très bien être imprudent ou inattentif. Hannah faisait passer par les rouleaux le coton avec une couche de caoutchouc, Bélanger y faisait passer le coton seul. Hannah se plaint de l'appareil pour faire arrêter la machine, et prétend qu'il aurait dû y avoir un homme à côté de lui uniquement pour faire fonctionner cet appareil en cas d'accident. L'appelant ne se plaint plus de l'appareil qui immobilise les rouleaux. Hannah ne signale le besoin d'aucun autre appareil protecteur. En somme, en supposant que l'accident de Hannah et la cause de cet accident aient été connus des officiers de l'intimée, cela n'est pas démontré, il faudrait encore prouver que par cet accident l'intimée a eu connaissance du danger possible et qu'elle avait le moyen de le prévenir par des précautions qu'elle a manqué de prendre. Dire que les rouleaux étaient dangereux pour un homme attentif, c'est une affirmation que le dossier ne permet pas de faire

Je trouve donc qu'il y a eu dans l'espèce une faute, qui, si nous étions sous l'empire du droit commun, donnerait lieu à l'application pleine et entière des articles 1053 et 1054 du code civil. Je ne crois pas cependant que cette faute soit la faute inexcusable dont parle la loi des accidents du travail. Et comme

1922
 BELANGER
 v.
 CANADIAN
 CONSOLI-
 DATED
 RUBBER
 COMPANY.
 Mignault J.

1922

BELANGER
v.
CANADIAN
CONSOLI-
DATED
RUBBER
COMPANY.

Mignault J.

il s'agit d'une exception qu'admet cette loi dans l'évaluation de l'indemnité que l'ouvrier a droit d'avoir, il faudrait que je fusse convaincu que nous sommes dans le cas de cette exception pour être en droit d'accorder l'augmentation d'indemnité que réclame l'appellant.

Je ne cite pas des décisions antérieures, car celles qu'on a invoquées sont des arrêts d'espèce, et chaque cause a sa physionomie propre. Les prétentions de l'appellant ont été soutenues avec beaucoup de talent, mais je les crois mal fondées.

Je renverrais l'appel avec dépens.

Appeal dismissed with costs.

Solicitor for the appellant: *Charlemagne Rodier.*

Solicitors for the respondent: *Casgrain, McDougall,
Stairs & Casgrain.*
