

Supreme Court of Canada
Fafard v. City of Quebec, (1917) 55 S.C.R. 615
Date: 1917-10-09

Fafard v. La Cite De Quebec.

1917: June 6; 1917: October 9.

Present: Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.

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

*Municipal corporation—Maintenance of highways — Protection wall on dangerous hill—
Automobile traffic—Liability for damages— Negligence.*

APPEAL from the judgment of the Court of King's Bench, Appeal Side¹, affirming the judgment of the Superior Court, District of Quebec², and dismissing the plaintiff's action with costs.

The appellant was being driven down a very steep hill in the City of Quebec, in a hired automobile. As it was raining, the pavement was slippery. The hill has always been considered as a very dangerous one: half way down there is a stiff turn to the right and the highway is along the edge of a precipice of over twenty feet high. The respondent had erected a prop wall up to the road surface and had put on that wall a wooden fence. The chauffeur, noticing that the wheels of his car were slipping, put on the brakes, but with no result, the automobile ascended the curb stone and the sidewalk, broke through the fence and fell down the incline. The appellant, seriously wounded, claimed from the respondent damages to the amount of \$2,500 on the grounds that the accident had been caused by the bad condition of the hill and the want of proper protection for the public.

[Page 616]

On appeal to the Supreme Court of Canada, after hearing counsel on behalf of both parties, the court reserved judgment and, on a subsequent day, dismissed the appeal with costs, Idington and Anglin JJ. dissenting.

Appeal dismissed with costs.

Bernier K.C. and Dion for the appellant,

Alex. Taschereau K.C. and Morin for the respondent.

¹ Q.R. 26 K.B. 139.

² Q.R. 50 S.C. 226.