

1910

THE DOMINION BRIDGE CO. v. JODOIN.

*Nov. 9, 10.

1911

*Feb. 21.

ON APPEAL FROM THE SUPERIOR COURT OF THE PROVINCE OF QUEBEC, SITTING IN REVIEW AT MONTREAL.

Negligence—Injury to workman—Liability of employer—Common fault.

APPEAL from a decision of the Court of Review at Montreal(1), maintaining the verdict at the trial in favor of the plaintiff (respondent).

The plaintiff, Jodoin, alleged in his action against the appellant company for damages, that he was employed by them as a skilled labourer in the erection of a building in Montreal. In the course of such employment he was ordered to finish some rivets at an elevation of at least fifty feet from the ground. There was no scaffolding directly under the riveting and he asked the foreman in charge if he would move and re-erect the one in use or place a plank across two beams near the work to be done and was ordered to use the plank. In doing so the plank slipped and he was thrown to the ground sustaining severe injuries. The defence was that the plaintiff had voluntarily and recklessly exposed himself to unnecessary danger.

The plaintiff produced evidence affirming the above statement of the facts. The foreman denied that he was asked whether or not the plaintiff should move the scaffolding, but did not say that he ordered it to be moved or forbade the plaintiff using the plank.

*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.

(1) Q.R. 39 S.C. 103.

The jury found that there was common fault and assessed the total damages to plaintiff at \$4,500, which was reduced to \$2,200, for which the plaintiff had judgment.

1910
DOMINION
BRIDGE Co.
v.
JODOIN.
—

On appeal to the Supreme Court of Canada the judgment of the Court of Review maintaining the verdict was affirmed by a majority of the court.

Appeal dismissed with costs.

Lafleur K.C. and *H. U. P. Aylmer* for the appellants.

Atwater K.C. and *Duclos K.C.* for the respondent.
