

BROKE HIS SPINE

Loss To Widowed Sister

CLAIM FOR COMPENSATION

A fatal accident at Ballinhinch, Knocklong, in June last, when a mason fell to the ground from a ten-foot scaffold, breaking his spine, was the subject of a claim for £500 damages against his employers at the sitting of Limerick Circuit Court on Wednesday, before Judge Sean O'Brien, S.C.

The action was brought by Mrs. Mary Hayden, Chapel St., Killinane, sister of the late Denis Ryan, and by her three children, who claimed they were total dependents of the deceased, against James Ryan, Church View, Killinane, and Patrick Ryan, 29 High Road, Thomond Park, Limerick, building contractors.

Mr. Sean Kenny, B.L., instructed by Mr. D. J. O'Malley, solicitor, appeared for the plaintiff, and the respondents were represented by Mr. M. A. Fitzgerald, B.L., instructed by Messrs. Philip Dunn and Co., solicitors, Cork.

Mr. Kenny explained that the only question at issue was one of dependency. The deceased, Denis Ryan, who had lived next door to the plaintiff, had been working as a mason with the defendants at Ballinhinch, Knocklong, on June 14th last, while working on a window, he fell from the scaffold and broke his spine. He died on June 18th in a Cork hospital. His weekly wages at that time were £4, an amount which the defence did not deny. Neither did the defence deny that the deceased died as a direct result of the accident. The deceased had never married, and the evidence would be that he contributed £2 10s. a week towards the support of his widowed sister (Mrs. Hayden) and her three children.

WIDOWED SISTER.

Mrs. Mary Hayden swore that she was a widow and sister of the deceased, Denis Ryan. She had three children, aged, respectively, 18, 16 and 15 years. Her brother was employed by James Ryan as a builder at the time of his death, and was being paid £1 a week. He was employed by the defendant about ten months every year, and during the other two months he worked on private contracts, during which he earned about £1 per month. Since her husband died six years ago she had no income besides the £2 10s., except the widow's pension of £8/- a week. On that she supported herself and her three sons, and provided deceased with £5 worth of food each week.

Patrick Ryan, brother of the deceased, said he was making no claim on the compensation. He agreed with the evidence of his sister, Mrs. Hayden.

When Mr. Fitzgerald submitted that he had no evidence to submit, Mr. Kenny submitted that under the provisions of the statute under which the case was brought, adult dependents were entitled to £300 if it had been proved that the applicants were totally dependent on the deceased. Where there were more than one applicant, there could be total or partial dependency. He submitted that his Lordship should disregard the widow's pension which the plaintiff was receiving in the case of proved partial dependency, a sum not exceeding that allowable under the provisions governing awards for total dependency could be awarded. He reminded the Judge that if he treated the children as only partially dependent on the deceased, they would not be entitled to compensation.

His Lordship said he thought the case was clearly one of partial dependency.

Mr. Kenny—Then the children go out.

Judge: What figure would you suggest?

Mr. Kenny—I'd suggest the full figure.

Mr. Fitzgerald submitted that the rule laid down that the injury done to the adult dependent had to be taken into consideration. The injury done here had been the amount of deceased's contribution which Mrs. Hayden had spent on herself, exclusive of the children.

DECISION OF COURT.

His Lordship found that the deceased died as a result of the accident, and that at the time of his death his weekly earnings were £4. He accepted the evidence of Mrs. Hayden, and from it drew the inference that she received £2 10s. a week, of which she spent 15/- on the deceased and £1 15s. on herself and the children. He had also to find that she was in receipt of £18/- a week from the State, which made the dependency a partial one. Under the provisions of the relevant section of the Act, he could not treat the children as being dependents in this case.

Accordingly, the only question to be determined was what amount of compensation was Mrs. Hayden entitled to on the basis of her partial dependency on her deceased brother. The deceased had contributed £2 10s. a week and consumed 15/- a week of this, leaving Mrs. Hayden £1 15s. a week with which to support herself and her family. He (Judge) had to award her what was reasonable and proportionate to the injury sustained.

There was, however, the difficulty of having to regard Mrs. Hayden as either an individual or as the mother of the three other dependents. As the mother, the loss would have to be regarded as greater. The relevant provision laid down, firstly, a maximum figure and then another figure within that figure which would be both reasonable and proportionate. That was, what his Lordship considered, a matter of mental gymnastics. He would have to treat Mrs. Hayden as an individual because, since the provisions, in the first place, dictated that the children would have to be treated as partial dependents, and hence not entitled to compensation, he could not bring them back into the case in the next breath by treating Mrs. Hayden as their mother. Therefore, he would have to treat her as an individual, and on that he would award her £250 with costs.

Mr. Keyes, T.D., seconded Mrs. O'Callaghan's proposition and the

GOOD WORK FOR THE BLIND

What Is Being Done In Limerick

LOCAL BRANCH OF THE NATIONAL COUNCIL

Reports At Annual Meeting

The annual general meeting of report of the secretary was Limerick Branch of the National Council was held in TREASURER'S REPORT.

The Town Hall, Limerick, on Friday, the Treasurer (Mr. P. F. Heffernan) reported that the working of the Branch's scheme during the attendance included Miss D. Peacock, Mrs. Armitage, Dublin, President of the I.A.S. H. Id.

"That is a very big loss for a small Branch such as ours," Mr. Heffernan remarked at the meeting, adding that he hoped the incoming Committee would devise ways and means of preventing a recurrence of the state of affairs, so that the Branch could "lead on an even keel in future."

Miss Irwin proposed that the report of the treasurer be adopted, and seconded by Mr. O'Callaghan. Mrs. Irwin's proposition was unanimously adopted.

The Most Rev. Chairman said he hoped the Committee and everybody associated with the Branch would take suitable action during the coming year to prevent a loss at its end.

WORK OF THE TEACHERS.

Miss Kelly and Hayes, Home Teachers, submitted their reports which Miss Kelly called a general resume of their work during the past year. All blind and partially blind persons in the area of the Branch's jurisdiction had been visited. The visits involved varied duties such as writing to distant relatives, the collection of pensions for those entitled to them, the posting of letters and the filing in of applications for benefits, where patients were entitled to them. The most important part of the teachers' duties was the instruction of blind persons.

Proposing the adoption of the teachers' report, Mr. Malcolm Shaw congratulated Miss Kelly on having been successful at the qualifying examination, and thanked the two teachers on their great work during the year.

The Most Rev. Chairman, declaring Mr. Shaw's proposition unanimously carried, said the entire meeting could associate themselves with Mr. Shaw's remarks. They all knew what drudgery the teachers had to endure during the executing of their duties and the Branch were very fortunate in having their services.

ELECTION OF OFFICERS.

The election of officers resulted as follows:

On the proposition of Mr. Heffernan, seconded by Mrs. Irwin, Mr. M. J. Keyes, T.D., was re-elected chairman.

Again complimenting the two home teachers, the report stated that Miss Kelly had taken her lot of the Limerick blind during the winter as easy as possible.

The report appealed for a larger panel of home visitors to make the lot of the Limerick blind during the year and as easy as possible.

Thinking the meeting for his re-election, Mr. Keyes said the work of the Council was one which should appeal to the feelings of a Christian people. He hoped the incoming Committee would consider seriously that their funds were "slipping down" and he felt they would be encouraged by the fact that their work in Limerick was yet only beginning.

On the proposition of Mr. Keyes, Mrs. Kelly was unanimously re-appointed hon. secretary, and on the proposition also of Mr. Keyes, seconded by Mrs. O'Callaghan, Mr. Heffernan was re-elected hon. treasurer.

The outgoing committee were re-elected in block on the proposition of Mr. Keyes, seconded by Mrs. O'Callaghan. They were authorised to co-opt new members as far as the constitution of the Society permitted.

QUESTION OF TEACHERS' EXAMINATIONS.

Miss Armitage then replied to Mrs. O'Callaghan's protest against the holding of the home teachers' examination in England. She was very glad to see so many of the business and professional community of Limerick so keenly interested in the work of helping the blind. She had often carefully considered Mrs. O'Callaghan's suggestion that teachers' examinations for Irish candidates should be held in this country, because she fully realised how awkward it was for the candidates from this country to travel, at their own expense, to Britain. However, the National Council considered the procedure recommended by Mrs. O'Callaghan hardly feasible at the present time.

The people of England, Miss Armitage pointed out, had a long tradition in this work for the blind and at present it would not be advisable, in the best interests of the blind of Ireland, to have the examinations conducted in Dublin. If the present arrangements were adhered to it was only because the Council wanted their teachers to attain the highest possible level.

Mrs. O'Callaghan said this reply did not satisfy her. She instanced the case of the Branch's teacher, Miss Kelly, who had all her experience in this country and who had to go to England to be examined. Why, she repeated, couldn't these examinations be held in Ireland, where examiners could be found as proficient as any which could be found in England?

Mr. McQuane proposed a vote of thanks to Most Rev. Dr. O'Neill for presiding at the first meeting of the Branch since his consecration. He believed they had the sympathy and support of his Lordship behind him.

Mr. Keyes seconded this proposal, which was adopted with acclamation.

His Lordship replied that the Council could always be assured of his support and assistance.

The meeting then ended.

OBITUARY

MR. DANIEL M. BRODERICK, P.C., ABBEYFEALE.

The death of Mr. Daniel M. Broderick, P.C., of New Street, Abbeyfeale, which occurred after a fortnight's illness, at the age of 80, evoked many feelings of regret amongst his numerous relatives and friends in West Limerick and Kerry districts. A man of sterling principles, rigidly straight-forward in all his business transactions, while ever gentle, kindly, and courteous in his intercourse with the public, are some reasons for the great respect and esteem which many remembered by their attendance in such very large numbers at the removal of his remains to the Parish Church, and next day at the interment in St. Mary's Cemetery. Many expressions of condolence were tendered to the members of his bereaved family.

Prayers at the graveside were read by the Very Rev. P. Canon Carroll, P.P., V.F.; Rev. J. Halpin, C.C.; Rev. J. Liston, C.C.; Rev. D. Murphy, C.C.

Chief mourners Michael Joseph, Frank, George, Jack and David, sons; John J., Donald, Bernard, daughters; Daniel, Jerry, David, George, Michael, Francis and Thomas grandsons; John, Joan, Eileen, Maisie (grand-daughters); John M. and David M. Broderick (brothers); M. J. Broderick (niece); M. J. Broderick (Purt); W. Broderick, Dublin, Mrs. M. D. Broderick, Mrs. P. F. Broderick (daughters-in-law); P. D. O' Riordan (brother-in-law); Mrs. P. M. O'Connor, Mrs. J. M. Broderick (sister-in-law).

Chief mourners Michael Joseph, Frank, George, Jack and David, sons; John J., Donald, Bernard, daughters; Daniel, Jerry, David, George, Michael, Francis and Thomas grandsons; John, Joan, Eileen, Maisie (grand-daughters); John M. and David M. Broderick (brothers); M. J. Broderick (niece); M. J. Broderick (Purt); W. Broderick, Dublin, Mrs. M. D. Broderick, Mrs. P. F. Broderick (daughters-in-law); P. D. O' Riordan (brother-in-law); Mrs. P. M. O'Connor, Mrs. J. M. Broderick (sister-in-law).

The defence was a denial of negligence and a plea of contributory negligence and further that the plaintiff was not a cause for proper action.

ACCIDENT DESCRIBED.

WIN. NESTOR O'LEARY, son of plaintiff, gave evidence that on the date in question he was riding a 5-year-old mare on saddle through Ardagh. As he came to the cross leading to Shanagolden, defendant's lorry came on behind without sounding the horn. The front of the lorry passed witness, but the back of the vehicle struck the mare. The mare then gave a jump, hit her head against the wall and fell sideways on the footpath. The mare was hit on the right hind leg by the back of the lorry. As a result the leg was broken and useless, and the animal had to be destroyed that day. The lorry was driving on its wrong side and witness did not see it until it was close up to him.

Mr. O'Donnell, T.D., put it to you that the horse shied and swerved out on to the middle of the road and struck the lorry? No. When the lorry hit her she plunged off right.

Dennis O'Connor, Ardagh, said he was just walking down the village when the mare passed quite close to the path. The lorry then came on more to the crown of the road and almost cleared the horse, but the tail of the vehicle struck the animal in the right hind leg. The horse then fell on the footpath and hit its head against the wall. There was no other traffic and there was room for the lorry to pass on its correct side.

Michael Nestor, plaintiff, said the mare's leg was broken, and it had to be destroyed. After the accident witness spoke to defendants, and they said they were sorry. The mare was worth £60.

Patrick Enright, farmer, also estimated the value of the mare at £60.

This concluded the evidence for plaintiff, and the Judge, at this stage, adjourned the further hearing to Limerick Circuit Court on Wednesday.

RESUMED HEARING.

When the hearing was resumed at the Circuit in Limerick on Wednesday, Sergeant C. Walsh, Ardagh, said that on 24th November last, as a result of a phone call he went to the cross leading to Shanagolden.

He saw a horse with a broken leg near a pool of blood. There was a lorry parked on its correct side of the road, about 40 feet away from the injured beast. Sixty feet behind the animal, witness discovered traces on the road indicating that the lorry had been travelling on its correct side of the road, and that it swung on to its incorrect side in order to pass the horse.

Michael Nestor, plaintiff, said the mare's leg was broken, and it had to be destroyed. After the accident witness spoke to defendants, and they said they were sorry. The mare was worth £60.

Patrick Enright, farmer, also estimated the value of the mare at £60.

This concluded the evidence for plaintiff, and the Judge, at this stage, adjourned the further hearing to Limerick Circuit Court on Wednesday.

DRIVER OF LORRY EXAMINED.

Jeremiah O'Leary, the driver of the lorry involved, said that when he approached Ardagh on the day of the accident he saw a horse, ridden by a boy, about 120 yards in front. The boy looked back and must have seen the lorry approaching.

Witness pulled his lorry on to the road so that he could pass the horse.

When the lorry was half past the horse, witness saw the horse swing out towards the lorry, and witness heard a slight bump.

He pulled the lorry into the left-hand side of the road, stopped and approached the boy. He asked the boy why he allowed his horse to shy across the road. To this the boy said nothing. Witness then went to the local Post Office and phoned the Guards. Witness later saw the boy's father, who told him it was unusual for the horse to shy.

In cross-examination, O'Leary denied that he could have pulled further to the right when passing the horse. The horse, he added, remained in the same position from the time it was struck until the Guards arrived. It was impossible that the horse could have been on the footpath when struck.

DISMISSED WITH COSTS.

Remarking that he had heard sufficient evidence, the Judge dismissed the claim with costs.

VILLAGE CRASH

Mare And Lorry In Collision

CLAIM FOR DAMAGES FAILS

A horse that had to be destroyed after being involved in a motor lorry accident at Ardagh was the subject of an interesting action at Rathkeale Circuit Court, before Judge Barry O'Brien, S.C. The case was one in which Michael Nestor, farmer, Kilshanagolden, sued Jeremiah O'Leary and Nicholas Cotter, both of Main St., Abbeyfeale, for £60 damages sustained owing to the alleged negligence of defendants in the management of a motor lorry at Ardagh on 24th November, 1945, whereby plaintiff was injured to the amount claimed.

Mr. M. Danaher, B.L., instructed by Messrs. Liston and Co., solicitors, was for plaintiff, and Mr. M. J. O'Donnell, B.L., instructed by Mr. J. K. Dore, solicitor, for defendants.

The defence was a denial of negligence and a plea of contributory negligence and further that the plaintiff was not a cause for proper action.

ACCIDENT DESCRIBED.

WIN. NESTOR O'LEARY, son of plaintiff, gave evidence that on the date in question he was riding a 5-year-old mare on saddle through Ardagh. As he came to the cross leading to Shanagolden, defendant's lorry came on behind without sounding the horn.

The front of the lorry passed witness, but the back of the vehicle struck the mare. The mare then gave a jump, hit her head against the wall and fell sideways on the footpath.

The mare was hit on the right hind leg by the back of the lorry. As a result the leg was broken and useless, and the animal had to be destroyed that day. The lorry was driving on its wrong side and witness did not see it until it was close up to him.

Mr. O'Donnell, T.D., put it to you that the horse shied and swerved out on to the middle of the road and struck the lorry? No. When the lorry hit her she plunged off right.

Dennis O'Connor, Ardagh, said he was just walking down the village when the mare passed quite close to the path.

The lorry then came on more to the crown of the road and almost cleared the horse, but the tail of the vehicle struck the animal in the right hind leg. The horse then fell on the footpath and hit its head against the wall. There was no other traffic and there was room for the lorry to pass on its correct side.

Michael Nestor, plaintiff, said the mare's leg was broken, and it had to be destroyed. After the accident witness spoke to defendants, and they said they were sorry. The mare was worth £60.

Patrick Enright, farmer, also estimated the value of the mare at £60.

This concluded the evidence for plaintiff, and the Judge, at this stage, adjourned the further hearing to Limerick Circuit Court on Wednesday.

RESUMED HEARING.

When the hearing was resumed at the Circuit in Limerick on Wednesday, Sergeant C. Walsh, Ardagh, said that on 24th November last, as a result of a phone call he went to the cross leading to Shanagolden.

He saw a horse with a broken leg near a pool of blood. There was a lorry parked on its correct side of the road, about 40 feet away from the injured beast. Sixty feet behind the animal, witness discovered traces on the road indicating that the lorry had been travelling on its correct side of the road, and that it swung on to its incorrect side in order to pass the horse.

Michael Nestor