

SULLIVAN *v.* THE UNION PACIFIC
RAILROAD COMPANY.

Circuit Court, D. Nebraska.

—, 1880.

DAMAGES—NEGLIGENCE.—In the absence of a statute damages cannot be recovered by a father from a railroad company for causing the death of a minor son.

The petition states the following facts, viz.: The plaintiff, a citizen of Omaha, was the father of James Sullivan, who, on the twelfth day of July, 1872, was killed by the negligence of defendant, the Union Pacific Railroad Company; that at the time of said killing said James Sullivan was hired by plaintiff to defendant at two dollars per day. Plaintiff sues to recover wages at that rate during the minority of the deceased, about four years.

A. J. Poppleton, for defendant, on hearing on demurrer, claimed that there could be no recovery, there being no statute providing for such a case.

J. I. Redick, for plaintiff, argued that the action being grounded in contract no statute was necessary.

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MCCRARY, C. J., (*orally*.) This is an action for damages by a father, who seeks to recover from the railroad company by reason of negligence in causing the death of a minor son. There is a demurrer to the petition.

The supreme court have decided in a recent case that there can be no such recovery in the absence of a statute.

The demurrer will be sustained.

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