

hurried execution of orders under such circumstances, and the difficulty of the work, tend naturally to such accidents as this. The tug is answerable for the unnecessary and unjustifiable method adopted by her captain in handling the boats, and she must therefore be held liable as contributing to the accident. *The Frank and Willie*, 45 Fed. Rep. 494. There is strong evidence, however, that the libelant was not giving his undivided attention to the lines, but was in part looking at the parade of the numerous vessels in the bay at that time in attendance upon the funeral of Ericsson. The libelant emphatically denies this. But as he has no one to confirm his own testimony on this point, and the story of the opposing witnesses is so natural under such circumstances, I do not feel warranted in awarding the libelant full damages on his own testimony alone, when thus contradicted, upon the theory that he was wholly free from fault. The libelant is not, however, for that reason, wholly cut off from relief in a court of admiralty. The accident was severe; he is a cripple for life; and, though the evidence does not justify a full decree, yet, upon the principles approved in the case of *The Max Morris*, 137 U. S. 1, 11 Sup. Ct. Rep. 29, 24 Fed. Rep. 860, I allow him the sum of \$700; for which a decree may be entered, with costs.

THE ELSIE FAY.

PIHLAG v. THE ELSIE FAY.

(District Court, S. D. New York. January 6, 1892.)

PERSONAL INJURIES TO SERVANT—NEGLIGENCE—INSUFFICIENCY OF PROOF.

The libelant suing for damages for personal injuries to his knee-pan, and the mode in which the accident happened not being satisfactorily explained, and amid numerous contradictions, *held*, that the claim was not established by a fair preponderance of proof, and the libel was dismissed without prejudice.

In Admiralty. Libel by John A. Pihlag against the schooner Elsie Fay to recover for personal injuries.

Alexander & Ash, for libelant.

Wing, Shouddy & Putnam, for claimants.

BROWN, J. The libelant was a seaman on the schooner Elsie Fay. He testified that on the morning of the 27th of January, 1890, before light, as he was placing the pump handle in the small boat which was lashed on deck athwartships a little aft of the mainmast, the lashing of the boat broke, because of its unfitness and rottenness; and that the libelant, in catching hold of the main boom to save himself from being hurt by the boat, had his knee thrown by the boat up and against the boom, so as to injure permanently the knee-pan, and disable him from further duties as a seaman. The testimony is full of contradictions of a distress-

ing character. My impressions of the libelant personally, from his appearance on the stand, were favorable to his integrity and honest testimony. But the contradictions of the libelant as to various circumstances are so many; the libel has so little support from other witnesses; the manner in which the accident is said to have happened, I find to be so difficult to appreciate; and, the libelant being found in the boat, there is such likelihood that the injury to the knee-pan may have happened from his fall into the boat, if he did fall into it, as he alleges,—that I find it impossible to hold that the libelant has made out his case by a fair preponderance of proof. The break of the boat is proved; but that break is not one likely to have been made in the way the libelant describes, but agrees rather with the defendants' theory. On the other hand, there are circumstances which it would seem that the defendants might have explained, but which they have not explained, especially how the break in the planks of the small boat actually occurred; and, if it occurred through any seas shipped, how any such seas sufficient to break the boat could have escaped notice at the time. Under all the circumstances of the case, I cannot render any satisfactory judgment; and I must therefore dismiss the libel, without costs, and without prejudice to the libelant.

THE KAATERSKILL.

HAMILTON *et al.* v. THE KAATERSKILL.

(District Court, S. D. New York. January 7, 1892.)

SALVAGE—FIRE ON DOCK—TOWAGE—MASTER'S SELF-SACRIFICE.

A fire breaking out about noon in a hay and straw store-house, within 50 feet of the bulk-head at Coxsackie, in the North river, where the large passenger steamer Kaaterskill was lying without steam up, the ferry-boat Coxsackie, from the adjoining slip, on moving out for her own safety, was called back to tow the steamer away, and thereupon, within two or three minutes, got along-side and towed the steamer to a place of safety. On contradictory testimony, *held*, that the steamer at the time when the Coxsackie took hold of her, was not out of the way of great danger, and but for her help would probably have been greatly damaged or wholly destroyed; and the steamer being worth from \$100,000 to \$140,000, and the ferry-boat \$3,000, *held*, \$2,500, a reasonable salvage award; and it appearing that, when the ferry-boat's master went to the help of the Kaaterskill, his own hotel, very near the burning warehouse, was threatened by the fire, and was afterwards consumed, *held*, that his conduct in going to the relief of the Kaaterskill, instead of attending to his own property, belonged to the class of heroic and self-sacrificing actions, and deserved recognition as such; and \$1,200 of the award was allowed to him, the ferry-boat not having incurred any damage or danger in the service.

In Admiralty. Libel by David M. Hamilton and others against the steam-boat Kaaterskill to recover salvage.

Benedict & Benedict, for libelants.

Wing, Shondy & Putnam, for claimant.

BROWN, J. The above libel was filed in behalf of the owners of the ferry-boat Coxsackie, and all others interested, to recover salvage for res-