

The ship is responsible for the supply of sound and safe bags for such a purpose. The *A. Heaton*, 43 Fed. Rep. 592; The *Julia Fowler*, 49 Fed. Rep. 277; The *Persian Monarch*, Id. 669; The *Wm. Branfoot*, 48 Fed. Rep. 914, affirmed, 52 Fed. Rep. 390.

The libelant was severely injured by the fall. The femur was fractured, and to some extent crushed. Shortening of the limb in consequence could not be avoided, notwithstanding the severe treatment applied in the endeavor to diminish the contraction, and the great suffering incident to this treatment. The result is a permanent injury and considerable crippling, disabling the libelant from following his former or any severe occupation, but not such as to interfere materially with many lighter kinds of employment. I award him \$2,000, with costs.

THE M. MORAN.

In re PETITION OF MORAN FOR LIMITATION OF LIABILITY.

(District Court, E. D. New York. December 24, 1892.)

NEGLECT—COLLISION—LOOKOUT.

A tugboat had towed a vessel to sea, and her pilot was being taken off the ship by a yawl attached to the station boat. As the yawl lay alongside the ship, the tug approached, and, owing to the failure of the wheelsman to see the position of the yawl until too late to stop his boat, the yawl was crushed between the tug and the ship, and two of the pilots in her lost their lives. The owner of the tug filed a petition in limitation of liability. *Held*, that the accident was due to the negligence of the master of the tug, and her owner was liable in damages.

In Admiralty. In the matter of the application of Michael Moran, part owner of the steam tug *M. Moran*, for limitation of liability.

Carpenter & Mosher, for petitioner.

James Parker, for claimant.

BENEDICT, District Judge. The sad occurrence which caused the death of two pilots while in their yawl boat alongside the bark *Methuselah*, by being crushed between that bark and the tug *Moran*, was the result of negligence. I find no negligence on the part of the pilots; for while it is true that, if the yawl's line had not been cast off from the bark, no injury would have been done, I do not think it was negligence on the part of the pilots to cast off their line when they did. The bark was moving. The proper thing to do, as soon as the pilot they were taking stepped into the yawl, was to cast off the line. The yawl was in plain sight of the tugboat, and the pilots had a right to suppose that the tugboat would not come close enough to the bark to catch the yawl as it was drifting aft alongside the bark and touching the same. Neither do I think it was negligence on the part of the pilots to attempt to climb on the rail of the tugboat when they saw the tugboat upon them. All in the yawl were at that time in a state of alarm because of the dangerous approach of the tug. To attempt to climb over the rail of the tug when the tug came upon the yawl was a rational thing to do under the circumstances, and

would have been attended with no danger whatever had not the tug kept moving on towards the bark, and thereby caught the pilots, while upon the tug's rail, between the tug and bark, so causing their death. It seems to me clear that the cause of the accident was the neglect of the man at the wheel of the tugboat to pay strict attention to what was before him, whereby he failed to see the position of the yawl until it was too late to stop his boat. Had he seen the position of the yawl when he ought to have seen it, he could have avoided the collision, either by stopping the headway of his boat, or by starboarding his helm. When, at the last moment, he saw the danger, he did just the wrong thing. Such attention on the part of the pilot of the tug as the occasion called for would, in my opinion, have avoided the collision. Let a decree be entered declaring the petitioner liable to damages in the sum of \$5,000.

THE CARL GUSTAF.

LOXLEY et al v. THE CARL GUSTAF et al.

(Circuit Court of Appeals, Fifth Circuit. December 19, 1892.)

No. 76.

1. COLLISION—TUGS AND TOW—RAFTS.

A Russian bark was being towed from the city of Mobile, through the Mobile river to the bay, and, having passed the turn stake, was following the dredged channel southeastward. At the same time a small tug, with two rafts of logs, the first on a line 200 feet long, and the other astern of it, both aggregating about 900 feet, was coming down the Blakely river channel from the northeast. The parties on the tug could see the bark for a mile or more, and those on the bark could see the tug about a half mile away. The tug first reached the junction of the two channels, and turned northwestward, towards Mobile, keeping as close as possible to the northern edge of the channel. Signals were exchanged to pass port to port, and the bark kept as close as possible to the south bank of the channel, leaving about 800 feet between them. It was ebb tide, and the current swept diagonally across the channel, and carried the rafts so far over that they came into collision with the bark, and were broken apart, some of the logs being lost. The bark was proceeding at moderate speed, and could not have stopped at any time shortly before the collision without going aground. The tug was not of sufficient force to carry the rafts at a speed which would prevent their drifting, and her master testified that the rafts were not of sufficient strength to stand a much greater rate of speed without breaking. *Held*, on a libel to recover for the lost logs, that the bark was not in fault, as, being a foreigner, her master could not be presumed to know the peculiarities of the local navigation; nor was the fact that she was in charge of a bay pilot sufficient to charge her with such knowledge and extraordinary precautions as would have been necessary to counteract the effects of the insufficiency of libellant's tug and the unwieldy proportions and feeble construction of the rafts.

2. SAME.

If there was any fault, it was on the part of those in charge of the rafts, who were regularly engaged in the business of towing logs through the channel, and attempted the passage with a full knowledge of its dangers.

Appeal from the District Court of the United States for the Southern District of Alabama.