

* *Fidler v. I.C.R. Co., 138 Ky. 42; s.c. 127 S.W. 501.*
P.K. (Pet. not good on demurrer.)

Indianapolis Traction & Terminal Co. v. Kinney, 171
Ind. 612; 85 N.E. 954; s.c. 23 L.R.A. (N.S.) 711.
(Pet. insufficient)
Plaintiff.

C. B. Daniels,

v. CITATIONS FOR DEFENDANT.

Lexington & Eastern Railway Company,

Defendant.

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In 4 Thompson on Negligence, Section 4834,

it is said -

① "In general, a servant is not entitled to recover damages from his master for injuries received in consequence of straining and overtaxing himself in lifting heavy objects in his master's service, since the servant is the judge of his own lifting capacity, and the risk of not overtaxing it rests upon him."

This case cites *Ferguson v. Phoenix Cotton Mills*, 106 Tenn. 236; s.c. 61 S.W. p. 53 (read from this case.)

~~This case cites *Ferguson v. Phoenix Cotton Mills*, 106 Tenn. 236; s.c. 61 S.W. p. 53, (read from this case).~~
See Stewart v. Minnesota Transfer P. Co., 25 L.R.A. (N.S.) 362.

Personal Injuries (2nd Ed.) Sec. 413, it is said -

② "Where a servant is injured by overexerting himself in lifting, he cannot recover, since the risk is one assumed, and it is immaterial that the servant was acting under the orders of a superior at the time, under fear of discharge in case of disobedience."

In 4 Thomp. on Negligence, Sec. 3807, it is said -

"An employer is bound to exercise reasonable care to the end not only of furnishing reasonably safe machinery, tools and appliances for the use of his servants, but also to the end of furnishing a sufficient number of servants for the safe accomplishment of a task imposed upon a servant, and is liable for an injury caused by his neglect of duty in this respect, in the absence of contributory negligence on the part of the servant; but not for an injury of which the failure to furnish sufficient men was not the proximate cause."