

FALCONBRIDGE, C.J.K.B.

OCTOBER 11TH, 1909.

LETCHER v. TORONTO R. W. CO.

*Street Railway—Injury to Passenger—Negligence—Contributory
Negligence—Findings of Jury.*

Action by Julia Letcher and her husband, Edwin Letcher, for damages suffered by reason of the defendants' negligence, as alleged.

The plaintiff Julia Letcher on the 24th May, 1909, was a passenger on a west-bound King street car of the defendants and wished to alight at Portland street. The car stopped there, but, as she alleged, started again as she was about to alight, and she was thrown to the ground and injured.

The action was heard before the Chief Justice and a jury.

The questions put to the jury and their answers were as follow:—

1. Were the injuries which the plaintiff Julia Letcher sustained caused by any negligence of the defendants? A. Yes.

2. If so, wherein did such negligence consist? A. In the conductor starting the car before the plaintiff had time to get off.

3. Or were the injuries sustained by reason of her own negligence or want of care? A. No.

4. If so, wherein did her negligence or want of care consist?

5. Could the plaintiff Julia Letcher, notwithstanding any negligence of the defendants, by the exercise of ordinary care, have avoided the accident? A. Yes—possibly by taking hold of the hand rail.

6. If you find that the plaintiff Julia Letcher was guilty of negligence, nevertheless could the defendants by the exercise of reasonable diligence have avoided the accident? A. Yes.

7. If you answer "yes" to the last question, what further could defendants have done to avoid the accident? A. We are of the opinion that the conductor was not attending to his business.

8. In case the plaintiffs should be entitled to recover, at what sum do you assess the compensation to be awarded?

(a) To the plaintiff Julia Letcher? A. \$450.

(b) To the plaintiff Edwin Letcher? A. \$150.