

jurors were in favour of the plaintiffs in all things essential to a verdict in their favour; that is to say, that had the jury been composed of those ten jurors only these would have been unanimously in favour of the plaintiffs upon all the questions submitted to them; so nothing now stands in their way in that respect.

And in regard to negligence in respect of sounding the whistle and ringing the bell, of that negligence being the cause of the disastrous collision out of which this action arises and of absence of contributory negligence, this jury also found altogether in the plaintiffs' favour. It may be that such findings, some of them, do not commend themselves to some judicial minds; but that is not the question; the single question really is whether there was any evidence upon which reasonable men could have so found; and I am bound to say now, as on the former occasion, that there was. The fact that a second jury—a special jury summoned at the instance of the defendants—have so found may be far from conclusive upon the question; but when added to that is the learned trial Judge's view that the question was so difficult and one that he was glad that the onus of solving it did not rest upon him, as well as the unquestionable facts that upon the evidence for the plaintiffs alone it would be impossible to argue reasonably that there was no reasonable proof of these things, and equally so upon the evidence adduced for the defence upon these questions, if the testimony of the trainmen were to be excluded, so that it comes to this, that the charge of unreasonableness rests upon the evidence of men more or less interested, whom the jury after seeing and hearing them have discarded, with these things added, as I have said, I find it quite impossible to say that there was no case to go to the jury in these respects; or that the verdict is anything like a perverse one; or that it ought to be set aside and another trial directed, because against the weight of the evidence. The case was in my opinion one for the jury in these respects, and they, as the judges of fact chosen by the parties, having taken the responsibility of finding as they have found, in the plaintiffs' favour, for a second time, there would be, in my opinion, no legal justification for disturbing such findings now.

But upon the question of damages I am in favour of allowing this appeal. There was no reasonable evidence of any pecuniary loss to the plaintiffs by reason of the death of