

The
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APPELLATE DIVISION.

JANUARY 25TH, 1915.

HUMBERSTONE v. TORONTO AND YORK RADIAL R.W.
CO.

*Street Railway—Injury to Person on Highway—Negligence—
Evidence—Findings of Jury—Motion for Nonsuit—Speed
of Car—Sounding Whistle—Ontario Railway Act, R.S.O.
1914 ch. 185, sec. 155—Contributory Negligence—Ultimate
Negligence.*

Appeal by the defendants from the judgment of MEREDITH, C.J.C.P., of the 17th November, 1914, upon the findings of a jury, in favour of the plaintiff, for \$1,000 and costs, in an action for damages for personal injuries sustained by the plaintiff by being struck by a car of the defendants upon a highway.

The appeal was heard by FALCONBRIDGE, C.J.K.B., HODGINS, J.A., and LATCHFORD and KELLY, JJ.

C. A. Moss, for the appellants.

M. K. Lennox, for the plaintiff, respondent.

The judgment of the Court was delivered by FALCONBRIDGE, C.J.K.B.:—This is an appeal from the judgment of the Chief Justice of the Common Pleas, pronounced at the trial of the action with a jury.

The action is for damages for injuries which the plaintiff sustained by reason of the alleged negligence of the defendants in operating an electric car on Yonge street, in the village of Newtonbrook.

The jury answered questions, and the learned Chief Justice on their answers entered a verdict for the plaintiff for \$1,000.

Several grounds were taken in the notice of appeal, but the only one relied on was that there was no evidence in support of the findings in the plaintiff's favour, and that therefore there should have been a nonsuit.