

When any cars were sufficiently dried and were to be removed into the cooling room, the operator would raise the door at the end of the track, remove the block of wood, when the car or cars would move into the cooling room, either by gravitation or by slight assistance, the operator replacing the wooden block in front of the wheels of the car which he wished to retain in the drying room when it came forward to a position near the sliding door.

On the night of the accident it was the duty of the deceased to remove one or more of the cars on the easterly centre track into the drying room. No other person was present, but some time after he was found crushed to death between the forward car of this central track and the post at the end of the passage. It was evident that the car had been a short distance back from the post and the door, and he had gone on the central or westerly side of the track to remove the wooden block. When the car came forward opposite the post, there was a space of only 6 inches between the car and the post, and he was caught with the head and right arm in front of the car and post, and the remainder of his body behind them. Each car had about a ton of bricks upon it, and there were 10 or 12 cars on the track in question.

At the close of plaintiff's case, defendant moved for a nonsuit; the question was reserved by the trial Judge; the defendant put in evidence, and then renewed his application. The whole case was submitted to the jury, who found defendant guilty of negligence: (1) in not having sufficient room between the track in question and the post; and (2) in having a steeper grade than necessary. They also found that the deceased voluntarily ran the risk of danger in removing the cars in question. Of this last answer the foreman gave some explanation, which, however, did not clear it satisfactorily.

The evidence for plaintiff was very meagre. Five witnesses were examined. Plaintiff herself testified as to the earnings and family of deceased; her son-in-law testified as to the incline, the number of cars, and the method of blocking them; one of defendants' workmen (Andrews) and a car shunter from an adjoining brick factory (Timson) gave evidence, to which further reference will be made presently: while a law student who examined defendant's factory and 3 other brick factories in the neighbourhood some 6 weeks before the trial and 6 months after the accident, was the