

On the other hand, the doctrine does not apply when the evidence before the Court merely shews the happening of the accident. Negligence is never presumed from the fact only that an accident occurred. It would constitute no case for a plaintiff to say that while he was a passenger in the defendant's train he suffered the injury complained of. The injury may have been self inflicted, or inflicted by a fellow passenger for whose conduct, in the circumstances, the carrier was not liable. The circumstances accompanying an accident frequently raise an inference of negligence, but the mere occurrence of the accident never does.

It would be equally nonsensical to say, as some Courts have said, that the doctrine in question does not apply at all in master and servant cases.

The following illustrations will give a fair idea of the views entertained by the Courts on this subject:

*Unexpected Action of Saw or Machine.*—The sudden starting of a machine when it should be at rest is evidence of negligence on the part of the employer if unexplained.

The plaintiff was employed by defendant to operate a cut-off saw, arranged on two upright timbers which moved to and fro as the saw was operated. When not in use the saw rested in a hood about 12 or 14 inches from the perpendicular, and was drawn forward against the timber to be sawed. At the time in question the saw had been placed back in the hood, and plaintiff was engaged in straightening a piece of timber, when the saw, which should have remained in the hood, unexpectedly sprang forward and injured the plaintiff. It was held that under the doctrine of *res ipsa loquitur* the circumstances raised an inference of negligence on the part of defendant which it was required to explain or disprove.

Without any known cause the arbor next to a saw, about which plaintiff was employed, flew out of the box and the saw fell to the ground, severely cutting plaintiff's foot. It was held that the doctrine did not apply, that there must be some evidence shewing what the defect or negligence was that caused the accident.

In an action by an employee to recover for injuries there was evidence that the carriage of the sawing machine, at which he