

MEREDITH, C.J.O., read the judgment of the Court. He said that it was not disputed that the collision occurred in consequence of the failure of the brake upon the car in which the respondents were, to work, and that this was due to the brake-beam breaking completely through near to one of its ends and ceasing to perform its function. The negligence charged was, that there was no proper inspection of the brake-beam, and that the motorman of the car, when it had slid by the stopping place at St. Clair avenue, at a short distance from the car-barns, was negligent in not having an inspection made at the barns.

Questions were put to the jury and were answered as follows:—

1. Was the defendant company guilty of any negligence which occasioned the accident complained of? A. Yes.

2. If so, in what did such negligence consist? A. Improper inspection of brake-gear.

3. After the motorman became or should have become aware of the danger to his passengers, could he have done anything that he did not do to avoid the accident? A. Yes.

4. If so, state what he should have done? A. Motorman should have called for inspection at the car-barn.

The 3rd and 4th questions were doubtless intended by the trial Judge to apply to what is sometimes called ultimate negligence. The jury evidently did not so understand them; no doubt, they intended by their answers to add to the answer to the 1st question the additional negligent omission which they attributed to the motorman by their answer to question 4; and the answers should be so read.

Was there any evidence for the jury? If so, are the findings such that no 12 reasonable men could have made them on the evidence?

The first question should be answered in the affirmative, and the second in the negative.

It was open to the jury to reach the conclusion that, when the car slid, the brake-beam had become impaired, though it had not been broken completely through, and that an inspection at the car-barns would have resulted in the discovery of its condition, and so have prevented the collision.

The damages were not so large as to warrant the Court in interfering.

*Appeal dismissed with costs.*