

conscious. His teeth were damaged, his jaw broken, and his injuries were severe. There was no eye-witness, and no one in a position to say what caused the blow which the plaintiff received.

There was evidence that the machine was not adapted for the use to which it was being put; that there was danger, in using it for picking felt, of the machine becoming jammed; and that, if that had happened, it would account for the condition in which the machine was found to be immediately after the accident; and there was evidence the other way, though it was satisfactorily shewn that the machine was not adapted for the use to which it was being put.

The case was fairly left to the jury, and the contentions of the parties were clearly explained.

The jury found: (1) that the accident was caused by the negligence of the defendants; (2) that the negligence was, that the machine was not adapted for the work and not in proper repair; (3) that the plaintiff could not, by the exercise of reasonable care, have avoided the accident.

The jury evidently accepted as true the plaintiff's testimony; and therefore, eliminating as a cause of the accident any negligent act or omission on his part, the accident must have been caused by some defect in the machine, or have been due to a cause attributable to the fault of neither party.

The jury were warranted in rejecting the last mentioned hypothesis. The defendants' case at the trial was inconsistent with it, and the view of both parties was that the accident was due to some one's fault, and that the question for the jury was, to whose fault it was to be attributed.

The jury's findings were sufficient to entitle the plaintiff to judgment. When read in connection with the evidence and in the light of the charge, it seemed plain that they rejected the defendants' theory and accepted that of the plaintiff; and by the first finding they connected the negligence found by the second with the plaintiff's injuries, because they said that it was that negligence that caused the accident.

The jury having found that the accident was not caused or contributed to by the plaintiff, and having found—and there was evidence to sustain the finding—that the machine was not adapted for the work and was not in proper repair, it followed (a cause attributable to neither party being eliminated) that the condition of the machine must have been the cause of the accident.

*Appeal dismissed with costs.*