

there are two lines of railway—one, the southerly one, being used for east-bound, and the northerly one for west-bound cars. Immediately prior to the deceased stepping off the kerb, at the south side of the street, an east-bound car had passed him, and a west-bound car was proceeding westerly on the northerly track; and there was nothing to prevent the deceased, if he had looked, from observing the approaching car from the time of his leaving the kerb until he stepped in front of it; but he walked across the street slowly, looking downwards, and finally stepped upon the track within ten feet of the approaching car.

The motorman was examined on behalf of the plaintiff, and testified that when about fifty yards away from the deceased he saw him leave the kerb, and that he watched his movements and sounded the gong continuously from that moment until the collision; that he threw off the power shortly after the deceased stepped off the kerb, and had his car under control, but did not stop it, not anticipating the deceased stepping in front of it; that, when the car was about ten feet away from the deceased, he, for the first time, thought the deceased might step in front of it, and that he then reversed the power, and had the car under such control that it stopped within less than one-half of its length, which was about thirty feet. The deceased was not thrown forward by the collision; and his body was found lying, feet foremost, alongside the forward trucks of the standing car and slightly under the portion of it which overhung the northerly rail.

The following are the questions submitted to the jury, with their answers:—

“1. Was the death of the plaintiff’s husband caused by any negligence of the defendants, prior to negligence of plaintiff’s husband? A. No.

“2. If so, wherein did such negligence consist?

“3. Was the plaintiff’s husband guilty of negligence which caused the accident, or which so contributed to it that but for his negligence the accident would not have happened? A. Yes.

“4. If you answer ‘yes’ to the last question, wherein did his negligence consist? A. In not looking for a car.

“5. Notwithstanding the negligence, if any, of the deceased, could the defendants, by the exercise of reasonable care, have prevented the collision? A. Yes.

“6. If so, what should they have done which they did not do, or have left undone which they did do? A. By putting on the brakes, and having the car under proper control.