

(5) Was this machine as operated when accident occurred dangerous to operate by reason of liability of it not to lock when knife went up? Ans. Yes.

(6) Was plaintiff ignorant of the existence of this danger? Ans. Yes.

(7) Were defendants aware of the existence of this danger? Ans. Yes.

(8) Could plaintiff by the exercise of ordinary care have avoided the accident? Ans. No.

(9) What damages do you find? Ans. \$2,500.

(10) Were the defendants guilty of negligence by reason of which plaintiff sustained damages? Ans. Yes.

(11) What is the negligence you find, if any? Ans. By not repairing the machine.

(12) Was plaintiff himself guilty of negligence which contributed to the accident? Ans. No.

The case for plaintiff must rest upon secs. 3 (1) and 6 (1) of the Workmen's Compensation Act and upon proof that the injury he sustained was caused by reason of a defect in the condition or arrangement of the machinery or plant used in the business of his employers. As the case was presented to the jury upon the evidence on both sides, it appears to me to have been an extremely difficult one for them to deal with in arriving at a conclusion as to how the accident happened and what was the cause of it, and the first four questions submitted to them have not been answered in such a way as to admit of judgment being entered thereon in the plaintiff's favour. Although the jury have found that the injury was caused by a defect in the condition or arrangement of the machine which was known to the defendants' superintendent, Shepherd, and which was not remedied owing to defendants' negligence, they were unable to find or determine what the defect in question was. That was the first thing which it was essential for plaintiff to prove, and, as he failed to do so, the other answers of the jury relate only to a defect not proved, and are therefore fruitless. The answers to the other questions, in view of the fact that the jury were unable to answer the second question, appear to me unsatisfactory and inconsistent, and leave it quite doubtful whether the jury were able to understand or appreciate the evidence as to the construction and operation of the machine. This, I must say, was left in a state of considerable obscurity not merely to the jury, but also to the trial Judge and counsel on both sides. Why the knife fell, whether owing to some defect in the machine itself, which plaintiff's own witnesses were unable to point out, or to the speed at which the knife