

think the jury did mean. I do not think that the jury meant to say "knowing the wrench to be defective, the deceased should have used greater care than he did in putting it on the nut;" that kind of negligence was not alleged. If they intended to find that the deceased knew the wrench was defective, there is ample evidence from which, to put it mildly, they might so find. He had been working on the machine for four months (p. 9), almost every time the drill was to be changed the nut had to be loosened (p. 71), and this was the only wrench that was supplied for the purpose. It is manifest Pressick must have known all about the wrench.

It was surely open to the jury to find as negligence that the deceased stood where he must almost certainly fall down the opening if the wrench should slip—that, I think, is what they meant.

The jury should, perhaps, have been asked to state more definitely what they did mean; and it is possible that all the trouble has arisen from the omission to do so.

But I am unable to follow the learned trial Judge when he says: "The jury found none of the grounds of contributory negligence sought to be established by the defendants, but evoked by some obscure process of reasoning on ground which is in my opinion unsupported by any evidence."

This, as it seems to me, is treating the jury with much less respect than they are entitled to; we should treat a jury as being reasonable men until the contrary is manifest, and I see nothing to indicate any obscure processes of reasoning or anything else than a finding in accordance with their views of the evidence and wholly supported by satisfactory evidence.

As I have already said if the negligence so found had been the negligence of someone, who by his negligence would have made a master liable to a servant, the Court would endeavour to support the finding, and a verdict, and a judgment based thereon; and the defendants should be in no worse condition than the plaintiff workman would have been in such a supposed case. So long as contributory negligence is a defence in law, so long should it be given full force and effect. If any change is to be made in the law, the Legislature must make it.