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APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

JULY 9TH, 1918.

NESBITT v. OTTAWA ELECTRIC R.W. CO.

*Negligence—Injury to Automobile by Collision with Street-car—
Findings of Jury—Contributory Negligence—Ultimate Negligence.*

Appeal by the defendants from the judgment of MULLOCK, C.J.Ex., upon the findings of a jury, in favour of the plaintiff, for the recovery of \$500 in an action for damages for injury to the plaintiff's motor car in a collision with the defendants' electric street railway car at a highway crossing in the village of Britannia, on the 6th June, 1917.

The questions submitted to the jury and their answers were as follows:—

1. Were the defendants guilty of any negligence which caused the accident? A. Yes.
2. If yes, in what did such negligence consist? A. That street-car was travelling at excessive rate of speed, namely, around 25 miles per hour.
3. Could the motorman, after he had passed the station and after the danger of collision had become apparent to him, or by the exercise of reasonable care should have become apparent to him, have avoided the accident? A. If he had been attentive to his duty, the accident could have been avoided.
4. If yes, what could he have done? A. Reversed engine and applied both brakes.
5. Was the plaintiff guilty of any negligence which caused or contributed to the accident? A. Yes.