

covery of \$375 in an action for damages for personal injuries sustained by plaintiff and for loss of a horse by reason of a collision between the horses and waggon driven by plaintiff and a car of defendants, upon the Kingston road, at the Woodbine avenue crossing, on 19th June, 1908, about 7.45 in the evening. The negligence charged against defendants was threefold: (1) excessive speed of car; (2) car not under proper control; (3) no warning to plaintiff of approach of car by sounding of gong or by a proper head-light. The jury found that the defendants "did not use proper care in approaching the crossing at too high a rate of speed;" they also negatived contributory negligence.

C. A. Moss, for defendants, contended that there should have been a nonsuit.

J. M. Godfrey, for plaintiff, contra.

The judgment of the Court (FALCONBRIDGE, C.J., BRITTON, J., RIDDELL, J.), was delivered by

FALCONBRIDGE, C.J.:—I have re-perused this evidence in the light of the very earnest and capable presentation of the case made by counsel. The learned trial Judge could not have withdrawn the case from the jury. The damages were small, and this, it is contended, is significant. But we cannot say that 12 reasonable men could not have answered the questions as they did.

Appeal dismissed with costs.

MARCH 8TH, 1909.

DIVISIONAL COURT.

GORDON v. MATTHEWS.

Bankruptcy and Insolvency — Assignment for Benefit of Creditors — Right of Creditor of Partnership to Rank on Estate of Partner with Individual Creditors — R. S. O. 1897 ch. 147, sec. 7.

Appeal by plaintiff from judgment of MULOCK, C.J., 12 O. W. R. 1274.

The appeal was heard by FALCONBRIDGE, C.J., BRITTON, J., RIDDELL, J.

R. S. Robertson, Stratford, for plaintiff.

G. C. Gibbons, K.C., for defendant.