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APPELLATE DIVISION.

JUNE 15TH, 1914.

LAIRD v. TAXICABS LIMITED.

*Trial—Jury—Irrelevant Evidence—Misleading Observations—
General Verdict—Prejudice—New Trial.*

Appeal by the defendant company from the judgment of LATCHFORD, J., upon the verdict of a jury, in favour of the plaintiff for the recovery of \$1,750, in an action for damages for injury to the plaintiff's automobile resulting from a collision with a taxicab of the defendant company in High Park, shortly after midnight of the 25th September, 1913.

The verdict was a general one, no questions having been submitted to the jury.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, SUTHERLAND, and LETCH, J.J.

J. P. MacGregor, for the appellant company.

T. N. Phelan, for the plaintiff, respondent.

The judgment of the Court was delivered by MULOCK, C.J. Ex.:— . . . A careful perusal of the evidence leaves me in great doubt as to which, if either party alone, caused the accident. In a case like the present, it would have been preferable to submit questions to the jury. They might have served the useful purpose of not only directing the jury's attention to the determining issues of fact, but also that of reducing the danger of the jury being unconsciously swayed by considerations foreign to the issue. . . .

The defendant company's counsel complains that undue prominence was given and unfair reference made throughout the trial to certain circumstances which may have prejudiced the jury against the defendant company, and that in consequence it did not have a fair trial. . . .