

COUNTY COURT OF THE COUNTY OF LANARK.

SCOTT, Co. C.J.

JULY 22ND, 1914.

BAILEY v. FINDLAY.

Highway—Improper Use of—Motor Vehicle Left Standing on Highway for Unreasonable Time—Injury to Horse Taking Fright at Car—Liability of Owners of Car—Proximate Cause of Injury—Negligence—Contributory Negligence—Motor Vehicles Act, 2 Geo. V. ch. 48—Inapplicability to “Dead” Car—Absence of Lights—“Between Dusk and Dawn”—Secs. 6(2) and 8(3) of Act.

Action for damages for injury to the plaintiff's horse by reason of its having become frightened by the defendants' motor car standing upon a highway.

The action was tried without a jury.

W. H. Stafford, for the plaintiff.

J. A. Stewart, for the defendants.

SCOTT, Co.C.J.:—On the evening of Saturday the 21st June, 1913, one Wellington Weir, accompanied by his sister, was returning from a trip into the country to the town of Carleton Place, by way of High street. They were travelling in a single rubber-tired buggy, drawn by a horse, both the property of the plaintiff, a livery-man of Carleton Place, from whom they had been hired by Weir during the afternoon of the same day. When the occurrence complained of actually took place is not shewn, with any degree of certainty, in any of the evidence offered on behalf of the plaintiff. Weir testified that he had reached his father's house from a picnic about six o'clock that evening, had tea there, and left for Carleton Place after sundown. The sun set, according to the evidence, at 7.54 or 7.55 o'clock. Before reaching the town he met two motor cars, both of which, he said were lighted. Neither of these cars caused the horse any trouble. Weir's father lives probably $3\frac{1}{2}$ miles from where the accident occurred. It is suggested by Weir that he was driving at the rate of perhaps six miles an hour. On passing the residence of William Findlay in High street, the horse became frightened at a motor car standing on the left side of the highway, at a distance of about 15 feet from the inner wheels of the buggy. The