

in which the deceased was travelling reached the defective part of the highway, it was travelling at a rate not exceeding twelve miles an hour, and was being properly driven and under the control of Robert Hunter; that Hunter had made all proper adjustments, having regard to the general condition of the road, and the fact that he was descending a grade; and that Hunter was a competent man, and was at the time exercising reasonable care. The learned Judge also said that the evidence of Hunter was given in a frank, unhesitating way; that he was a clear-headed, intelligent man; and his evidence should be accepted as generally reliable and accurate. A careful perusal of his evidence satisfied the learned Judge that, from the time the car jolted over the cut, until it upset and pinned the driver and the deceased Connor under it, Robert Hunter was not mentally fit or physically in a position to control the car, and did not in fact control it, and that this condition was solely due to the shock or jar occasioned by the condition of the highway and the almost overturned condition of the car, as it descended from the highway. The condition of the highway occasioned the driver of the car, and, therefore, the deceased, to be in a position in which he could not help himself; and, therefore, the want of repair was the cause of the casualty. Judgment for the plaintiff for \$2,500, with costs. D. Robertson, K.C., for the plaintiff. O. E. Klein, for the defendants.