

street at the point in question, and knew that he was approaching the track, and that trains frequently passed up and down upon it. The crossing itself is visible for a considerable distance, being somewhat above the level of the highway and being marked at the sides by white-washed fences and crossing boards. When he reached a point 137 feet distant from the nearest rail he had an unobstructed view of the track to the north of the crossing for the distance of 1,000 feet, and, had he looked, might have seen for the whole of that distance the approach of a freight train coming south. He did not look either to the right or to the left, and he says that he was struck by the engine as the front wheel of his bicycle was crossing the westerly rail of the track, and that until the instant before he was struck he did not see the engine at all. He says that if he had seen the engine when he was within 10 feet of the track, he could have saved himself by turning his bicycle, as he was not going fast at the time.

There was some evidence that the usual statutory signals were not given.

Defendants' counsel moved for a nonsuit at the close of plaintiffs' case, and I reserved my decision upon the motion, allowing the case to go to the jury in the meantime.

The jury found in answer to questions submitted to them:

1. That the statutory signals were not given.
2. That the engine struck plaintiff, and that he did not run into the engine.
3. That there was no obstacle to prevent plaintiff's view of the track for the distance of a quarter of a mile after he had passed the greenhouse.
4. That plaintiff could not by using reasonable care have avoided the accident.
5. That the cause of the accident was the want of proper warning.
6. That the train was travelling at the rate of 15 to 20 miles an hour.
7. That this was an excessive rate of speed.
8. They assessed the damages to the plaintiff who was injured at \$2,200, and to his father at \$300.

The greenhouse mentioned in the answer to the 3rd question was so placed that after passing it there was an unobstructed view for a quarter of a mile up the track during the progress of plaintiff for 137 feet along Bloor street before he reached the track. . . .