

insufficiency of provision for electric transmission in portions of the equipment circuits.

(3) Lack of proper inspection.

(4) Allowing the car to be operated by an inexperienced and incompetent motorman.

(5) The failure of the motorman to apply the brake and thus stop the car.

5. The plaintiff submits that the mere fact of the accident happening in the circumstances of this case establishes negligence on the part of the defendants in the absence of explanation by them.

6. The defendants did not attempt to explain the cause of the accident, claiming that they could not in any way account for it; that it was as their witness McCrae put it, an inexplicable phenomenon.

7. The evidence of the plaintiff showed that the accident was caused by defective insulation in the cables close to the controller; that if there had been proper inspection by the Company of these cables the defect would have been discovered and could, of course, have been remedied; that the result of such defect was that a short circuit of the current was established at the defective point which caused the trouble. The evidence did not, as stated in the Reasons of Appeal, show that the car had been thoroughly overhauled within a reasonable time and new wiring put in; on the contrary, the defendants failed to show proper inspection of the car particularly of the defective cable and the jury found that the car was not properly inspected.

8. The evidence shows that the defendants' motorman was incompetent and that he was negligent in not applying the brake.

The controller and brake are so placed that the motorman has his controller under his left hand, and the air brake under his right hand and a competent or careful motorman would have applied the air brake simultaneously with shutting off the current. This the motorman failed to do. Not that he was alarmed, because he states in his evidence that he was not alarmed, but simply through neglect. He omitted the vital act which would have saved the situation, namely, the applying of the brake, and instead of so doing he called to the passengers, according to his account, not to get off the car and told the conductor to take the pole off the wire, which was not done. The jury found that the motorman was incompetent. He was only a relief man, and they found that he was negligent in not applying the air brake by which means he could have brought the car to a stop before the accident to the plaintiff happened.

9. While it is true, as stated in appellants' reasons of appeal, that the stopping of the car would not have prevented the fire and smoke, it would have prevented the smoke from drifting back into the car and it is reasonable to believe that it would have materially reduced, if not entirely done away with the panic, when the passengers saw that the car was stopped and that they could get off when they pleased without hurry or risk, and the plaintiff could have alighted with safety instead of being shoved off, and even if they had shoved the plaintiff off while the car was at a stand-