Co.'s line about 1,250 feet, where there is a switch connecting it with the Michigan Central, and before coming to this the brakesman got off to turn the switch at that point. At a distance of about 150 feet south of that is the Grand Trunk Railway switch, and before the engine reached it the conductor got off the train to open the switch so as to allow the train to pass over to the Grand Trunk line, but the engine-driver, although he turned the air brakes up to the emergency notch and reversed his engine, could not stop the train, which was backing on a down grade of 2½ feet in 100 feet, or an incline of 85 feet in 4,400 feet—the distance between defendants' station and Tilson's mill, where plaintiff was injured. The engine-driver jumped from the engine when 2,200 feet from the mill, and the fireman jumped off a short time after the engine-driver. The former said the train was then running at the rate of 10 or 11 miles an hour.

The engine-driver . . . followed the train down, and when near Tilson's mill the engine, with a full head of steam on, was returning with the tender and baggage car attached—the two flat cars having become uncoupled when they collided with the car standing at the mill. . . .

What I regard as the obstacle to plaintiff's retaining the verdict of the jury is what the learned Judge told the jury towards the conclusion of his charge, where he said:

"There is one thing I have not touched upon: the condition of the engine. . . . On most engines there is what is called a sand-pipe, coming down in front of the driving wheels, which, in case of a slippery rail, puts sand upon the tracks in order that the driving wheels may get a better grip thereby, and not slip upon the rails. It is said by Mr. Clark, the gentleman who was so long upon the railway, that it is now very largely the custom to have a steam-jet coming down in the rear . . . to clean the rail. He says that it is preferred to a sand-pipe. Then he also speaks of another pipe that is sometimes used—a rear sand-pipe, that is, a pipe . . . coming down behind. And it is important, perhaps, for you to consider that rear sand-pipe and what the evidence is with regard to it. Manifestly, putting sand upon a rail behind the driving-wheel would not give any grip to the wheel, because the wheel would be in advance until you come to reverse the engine; but then, when the engine is going backwards, that sand-pipe would become of use. Mr. Clark, the witness called by plaintiff, says that that is very seldom used. . . Mr. Kennedy, the Grand Trunk master mechanic, called for defendants, says that they have the sand-pipes at the rear of the driving-wheels on about 10 per cent. of their