

SECOND DIVISIONAL COURT.

FEBRUARY 26TH, 1917.

*BILLINGTON v. HAMILTON STREET R.W. CO.

Street Railway—Negligence—Passenger Standing in Car Injured by Falling when Car Stopped—Evidence—Violent or Sudden Stop—Findings of Jury—Meaning of.

Appeal by the defendants from the judgment of FALCONBRIDGE, C.J.K.B., at the trial, upon the findings of a jury, in favour of the plaintiff.

The action was to recover damages for injuries sustained by the plaintiff (a woman) while a passenger on a car of the defendants, by reason of the negligence of the defendants' servants, as the plaintiff alleged. The plaintiff was standing in the car or walking through it to find a seat, when the car stopped, and she fell on the floor, and was injured.

The judgment was for \$6,000 and costs.

The appeal was heard by RIDDELL and LENNOX, JJ., FERGUSON, J.A., and ROSE, J.

D. L. McCarthy, K.C., and A. Hope Gibson, for the appellants.
G. S. Kerr, K.C., for the plaintiff, respondent.

LENNOX, J., read a judgment in which he said that, although stopping the car was not negligence per se, the defendants were liable if the stop were effected in a negligent way and caused the injury. The learned Judge would not, upon the evidence, have come to the conclusion reached by the jury; but that was not enough. A violent or sudden stop was not necessary or justifiable in the circumstances of the case, and there was evidence, which the jury had to consider, that the stop was of that character; they were at liberty to accept and act upon that evidence. They found that the car was brought to a sudden stop without precaution or warning, and that that was the cause of the injury. However unconvincing it might be, it could not be said that 10 or 12 reasonable men could not have answered the questions as they had answered them.

The appeal should be dismissed.

RIDDELL, J., and FERGUSON, J.A., concurred.