

engine bell. The next thing she could remember was something happening to her, and she was picked up in an injured condition. As a matter of fact she had come into collision with the engine of a train which was approaching the station from the west. She had not got in front of it, but was struck by the buffer beam of the engine.

Several grounds of negligence were alleged.

The following were the questions submitted and the jury's answers:—

1. Were the defendants guilty of any negligence which caused the injuries to the plaintiff? A. Yes.
2. If they were, in what did their negligence consist? A. In not having the arm over the south-east sidewalk.
3. Was the plaintiff guilty of any negligence? A. Yes.
4. If she was, in what did her negligence consist? A. She should have used more precautions to protect herself.
5. If the plaintiff was guilty of such negligence, did her negligence so contribute to the happening of the accident and her injuries that but for her negligence the accident would not have happened? A. Yes.
6. Could the engineer of the Windsor train, after he became aware that the plaintiff was in a position of danger, by the exercise of reasonable care have prevented the accident? A. No.
7. Ought the engineer, if he had exercised reasonable care, to have sooner seen the danger to the plaintiff and the necessity of bringing his train to a stop if the accident to the plaintiff was to be avoided? A. Yes.
8. If the answer to question 7 is in the affirmative, could the engineer by the exercise of reasonable care have prevented the accident if he had acted more promptly? A. Yes.
9. What was the position of the gates when the plaintiff came to the tracks and when she was passing over them? A. They were down, except the arm on the south side over the last sidewalk.
10. At what sum do you assess the plaintiff's damages? A. \$1,500.

The appeal was heard by Moss, C.J.O., OSLER, GARROW, and MACLAREN, JJ.A.

D. L. McCarthy, K.C., for the defendants.

G. H. Watson, K.C., for the plaintiff.

THE COURT held that, upon the findings of the jury, the judgment should have been entered for the defendants, and therefore allowed the appeal and dismissed the action.