

travelling at 5 or 6 miles an hour, the defendant-chauffeur must have known that, in case of emergency, and to prevent accident, he could not stop his automobile in less than 12 to 20 feet from the moment all the brakes were applied, to which is to be added the distance travelled during the time between the moment his mind decided to apply the brakes, and the application of his hand and foot to the brakes. Moreover, with the full knowledge of what was in front of him, the age and sex of the deceased, the nervous excitement with an approaching motor car is known to cause, should he not have exercised even more than ordinary caution in approaching the deceased. The law says the degree of caution must be regulated by circumstances. Did not the circumstances in question demand from the defendant-chauffeur more than ordinary caution? I certainly am of that opinion. I am of opinion defendant-chauffeur was careless and negligent in the management of his automobile and that his negligence was the proximate cause of the death of the deceased.

“The next question to be considered is: Was there contributory negligence on the part of deceased? The defence was based upon the alleged negligence of deceased in retracing her steps instead of continuing to the sidewalk on the north side. If the deceased did not continue, what was the cause? She had reached midway between the car track and the north curb, or 20 or 22 feet from the sidewalk. She was on the north half of the street. The defendant-chauffeur deliberately guided his car along the north half of the street. The custom of the province of which this court is bound to take judicial notice, independently of the proof made on that question, requires that a vehicle shall pass to the right, and, where necessary to avoid accident, and it is possible to do so, a vehicle