fell to the bottom of the shaft, striking the appellant, who had "got out of the way in a corner;" and it is in respect of the injuries thus sustained that the action is brought. . . .

The learned Judge determined the case on the application of the principle that "where the thing is shewn to be under the management of the defendant or his servant, and the accident is such as in the ordinary course of things does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by the defendant, that the accident arose from want of proper care;" and his conclusion upon the evidence was that the respondent had met this onus, and had shewn that it had exercised proper care; and he, therefore, gave judgment dismissing the action.

I am, with respect, of the opinion, that this conclusion was not well-founded. The evidence of Stovel was most unsatisfactory. Although the accident had resulted in the death of one workman, as well as in causing the appellant's injuries, Stovel, though he was the superintendent in charge, appears not to have taken the trouble to ascertain definitely whether there was more than one break in the cable. . . . There was, besides, no explanation offered as to the cause of the cross-head falling to the bottom of the shaft. . . . It is a proper conclusion from what happened that, if the stop-blocks were there, as probably they were, they were insufficient, and that the respondent was negligent in not having stop-blocks of sufficient strength to withstand the impact of the falling cross-head.

These considerations and the fact that no attempt was made to shew that the cable or the safety devices were ever inspected after April, 1912, lead me to the conclusion that the respondent failed to displace the inference which, if the principle that the learned Judge held to be applicable were applicable, was to be drawn from the happening of the accident. . . .

It was . . . argued by counsel for the respondent that the principle which the learned Judge applied was not applicable; that the . . . rule of evidence res ipsa loquitur does not apply to a case between master and servant; and he cited, in support of his contention, Beven on Negligence, 3rd ed., p. 130.

The cases referred to by Mr. Beven in support of this statement do not, in my opinion, justify as broad a statement as he makes.

If all that is meant be that in cases between master and servant the application of the principle enunciated by the Exchequer Chamber in Scott v. London and St. Katherine Docks Co. (1865), 3 H. & C. 596, 601, 140 R.R. 627, 631, that "there