

William Proudfoot, K.C., and G. H. Gilday, for the plaintiffs, respondents.

MEREDITH, C.J.O., reading the judgment of the Court, said, after stating the facts, that the view of Middleton, J., was that the obligations of the appellant company to the plaintiff who was injured as its passenger were ended when she reached a place of safety upon the road, and he rested his judgment upon an invasion by the appellant company of her rights as a traveller upon the highway, and his conclusion was that there was a duty resting upon the conductor of the car to see that "all is safe before he signals the motorman to round the curve."

The view as to the obligation terminating when the passenger reaches a place of safety was, in the opinion of the Chief Justice, too narrow. The obligation of the company was greater towards a passenger who had not completed her journey, but in order to do that had to transfer to another line, than it would be to a passenger who had completed his journey; but, even as to such a passenger, the company was bound to provide a stopping place at which the passenger could proceed to the sidewalk without having to pass through such a pool of water as existed at the usual place for crossing McCaul street, or subjecting him to the danger, before he had reached the sidewalk, assuming that he had not unnecessarily delayed in crossing, of being struck by a car when it was swinging round a curve such as existed at the stopping place.

The conductor and the motorman knew or ought to have known that their passengers would not, at all events, be likely to wade through the pool, but would do as the plaintiff did—proceed to the rear of the waggon in order to be able to pass dry-shod to the sidewalk. They also knew that the horses and waggon were where they were, and that the space between them and the car when it rounded the curve was so small that any one who was standing or walking in that space would inevitably be struck by the moving car; they were, therefore, guilty of negligence in starting the car without first making sure that the passengers who had left the car were not still between it and the waggon; and that negligence was the proximate cause of the injuries which the plaintiff received.

*Appeal dismissed with costs.*