AUTOMOBILE OWNERS LIABLE TO GUESTS FOR INJURIES DUE TO CARELESSNESS IN OPERATION.

Automobile owners are liable for claims for injuries to their guests if such injuries are the result of negligence by the chauffeur, according to a decision just handed down in the Appellate Division of the Supreme Court. The decision, which, if upheld in the higher court, will materially increase the liability of automobile owners, was rendered in the case of Josephine C. Lowell against Harriet T. Williams, on an appeal from a verdict of the Supreme Court for $4,000 in favour of the plaintiff. A synopsis of the opinion of the Appellate Division, New York, written by Justice Kelly is as follows:—

"On November 5, 1915, the plaintiff was invited by the appellant to ride with her in appellant's automobile, and operated by appellant's chauffeur, from Garden City to Brooklyn. While travelling west on the Jericho turnpike the automobile came in collision with a motor truck and the plaintiff was injured. She brought this action against the appellant Williams and the owner of the motor truck, alleging that both of said vehicles were carelessly operated and that she was injured through the negligence of defendants and without fault on her part. The jury rendered a verdict in favour of the plaintiff against the defendant-appellant, acquitting the defendant motor truck owner of blame. The accident happened about dusk, and the evidence as to the speed of appellant's automobile, failure to observe the motor truck or to stop or otherwise avoid the collision necessitated the submission of the question of appellant's negligence to the jury, and their verdict cannot be said to be against the evidence.

"The learned trial justice charged the jury that a master is responsible for the acts of his servant within the scope of that servant's employment, and if the servant be negligent and that negligence results in an injury to a third person, that third person has a cause of action against the master, and that in this case if appellant's chauffeur was negligent she was chargeable with such negligence.

"That the owner of a vehicle inviting another to ride with him as a favour nevertheless owes some duty to his guest, cannot be disputed. He cannot wilfully injure him or expose him to unnecessary or unusual dangers. Nor can it be disputed that in such case the owner would be responsible for his own personal negligence in caring for his guest.

"There may be cases where the relation of the owner of the vehicle and the person so invited would partake of the nature of a joint adventure, in which the chauffeur, the general servant of the owner, would, for the time being, become the servant of both, or where the doctrine of assumption of risk might bar recovery. In such cases the doctrine respondeat superior might not apply. But on the evidence here there is nothing to justify a finding of joint adventure or assumption of risk. Indeed there is some evidence from appellant's chauffeur tending to show active personal supervision of the operation of the automobile by the appellant. But the mere fact that the plaintiff was a guest, riding free, accepting a courtesy and kindness from appellant, does not prevent the application of the rule.

"If the appellant here owed the plaintiff the duty of reasonable care, she was responsible for the conduct of her servant, doing her work, carrying out her orders in her immediate presence not only from the necessities of the case, but on the ordinary principles of right and wrong. The plaintiff was powerless to interfere. Granted the obligation of reasonable care, we do not think we can abandon this well-settled salutary and reasonable doctrine on the facts here. There is an interesting discussion of the rule in Dr. Baty's 'Vicarious Liability' (Oxford University Press, 1916); but, like other critics of existing conditions, the learned author does not give us anything in place of it.