

damages for injuries to plaintiff M. G. Harverstock, the wife of plaintiff Ambrose G. Haverstock, by being run into by defendant's motor car in College street, in the city of Toronto, and for a new trial.

The motion was heard by BOYD, C., MAGEE, J., MABEE, J.

J. M. Godfrey, for plaintiffs.

G. T. Blackstock, K.C., for defendant.

MAGEE, J.:—Plaintiff Mrs. Haverstock says she was riding at a moderate speed eastward on a bicycle along the roadway close to the south curb on College street, about 7 p.m. on 19th September. She overtook a street piano, which was being pushed by a man and also going eastward, but which was somewhat nearer the centre of the road than she was, it being about half way between the curb and the street car tracks. As she approached it, she rang her bell, and the man paying no attention she rang again, and then he turned slightly to the right nearer the curb. She deflected her course to the left, and went round the piano to the north between it and the southerly street car track, and after passing it she again turned to the south side of the roadway, and was riding along about a foot from the curb, when suddenly she heard a "sizzling" noise . . . and turning her head to see what it was, she found that the left front light of the automobile driven by defendant was at her left elbow, and at the same instant its right wheel struck the hind wheel of her bicycle and shoved it from under her, and she fell to the left between the two wheels of the automobile. The latter was stopped before it ran over her, but her foot was caught under the wheel, which had to be lifted off, and she was injured. She says she had not a second's warning, no horn was blown, and the machine must have come behind or almost directly behind her, and she had not seen or heard it coming, nor seen any light or shadow of the light. Before she overtook the street piano she had seen the lights of the automobile at the north side of the road, and as she passed the piano the automobile was then standing still, almost directly north of her and at the north curb and facing westward. She could not say if there was any person in it, as it stood under the trees in the shade, but she says the light shone plainly on the side she was on. To the