

gon with horses, it appeared that the deceased on approaching the track looked both ways, but did not look again just before crossing when he could have seen the engine. The jury found that the whistle was not sounded nor the bell rung, that such neglect was the proximate cause of the injury, and that the deceased could not by the exercise of ordinary care have avoided the injury.

Held, that the omission to look again was not such a circumstance as would have justified withdrawing the case from the jury; and a judgment for the plaintiffs upon the findings should not be disturbed.

Decision of MEREDITH, J., affirmed.

Riddell, K.C., for defendants, appellants. G. H. Pettitt, for plaintiffs.

Full Court.]

[April 23.

RENWICK v. GALT, PRESTON AND HESPELER STREET R.W. Co.

Damages—Fatal Accidents Act—Loss of child—Right of mother while father living—Excessive damages—Reasonable expectation of pecuniary benefit—New trial.

The mother of the deceased is a person for whose benefit an action can be brought under the Fatal Accidents Act, although the father is living.

Damages assessed by a jury at \$3,000 for the loss of a daughter seventeen years old by reason of the negligence of the defendants, were held to be excessive, and a new trial was directed unless both parties would agree to have the damages fixed at \$1,500.

Order of a Divisional Court, 11 O.L.R. 158, reversed.

DuVernet and R. H. Greer, for defendants, appellants. Lynck-Staunton, K.C., and Secord, for plaintiff.

HIGH COURT OF JUSTICE.

Boyd, C., Street, J., Britton, J.]

[March 14.

SMITH v. CANADIAN EXPRESS CO.

Carriers—Non-delivery and conversion of goods—Termination of transitus—Conditional refusal of consignee to accept—Place of refusal—Setting aside findings of jury—Dispensing with new trial—Judgment.

Trees consigned by the plaintiffs to one C., at Aylmer, Que-