

that machine to have called him and that the plaintiff should have heard the call.

Angelo Rao said that he saw the plaintiff at the machine on the day he was injured. Rao said the plaintiff said he could go where he liked, and that he was 4 or 5 paces distant from the machine. Where Rao stood and demonstrated to us (on the occasion of the view) where the plaintiff was, from the machine, he must have been 10 or 12 paces away. He said he saw the plaintiff pass around Winters's shoulder to the other side, that he heard a cry coming from the place where the plaintiff had been working that "time was up," and that the plaintiff tried to get around the machine, and was injured; he put up his hand in order to save himself and got caught.

Winters, whose statement I believe, said that, instead of wanting the plaintiff to come where he was working, the plaintiff had prior to that day been annoying him and putting out a light and taking other liberties there, and he warned him away; that on this day he came up and put out the light which was hanging in front of the machine, and close to where he was working, and without which the work could not be carried on, and that after he put it out the plaintiff started to run around the machine; and it is likely that, not knowing there was a step near the machine, he stumbled and was falling forward, and in order to save himself reached out his left hand, which was farther from the cog-wheels than his right hand, and got caught in them, and part of his thumb and one of his fingers were taken off.

The evidence satisfies me that the plaintiff was at this machine after repeated warnings from McVicar and Bahm, and after repeatedly being told by Winters that he must not come around the machine at which Winters was at work. I think he was there violating the orders of his superior officers, breaking their instructions to him, and the injury was caused by his own act of negligence.

No doubt, this was a dangerous machine. It is admitted that it was unguarded. I find that it might have been guarded if it had been thought necessary; but no one of these boys from the other side of the shop had a right to go there. The plaintiff went there notwithstanding the repeated warnings, and he brought the injury on himself.

Since making the findings, I have come across the case of *Lowe v. Pearson*, [1899] 1 Q. B. 261, which is directly