

A mere passenger in a vehicle is not entitled to maintain an action to recover for damage done to it through the negligence of a servant in respect of the management of another vehicle belonging to or hired by his master. But in the case where this rule was laid down it was held that persons who had hired the damaged vehicle for the day, and also appointed the driver and furnished the horses, might for the purpose of the action be considered as the owners and proprietors of the vehicle.⁹

5. Liability as affected by the servant's deviation from a prescribed route. Generally¹.—If the journey during which the injury in question was inflicted was commenced in the course of the servant's employment, the mere circumstance that the act which caused the injury was done at a place where he would not have been if he had been following the route prescribed by his master is not sufficient to preclude the aggrieved party from recovering.

to the forge to have the horses shod. The act, then, which caused the injury was an act for the benefit of the masters, but also, I will assume, for the purpose of the servants. So far as the act was for the benefit of the masters, the act of the servant was, in law, that of the masters; and I cannot see that it ceased to be the masters' act because, for another purpose, it was an act of the servants. The act of going was the masters' act; but for their own purpose the servants performed that act more rapidly than they would otherwise have done—that is, in a negligent manner. In other words, whilst, by reason of the continuance of the master's purpose the act retains the quality of that of the masters, the servants' own purpose qualifies the manner of doing it, and renders such manner negligent. But this is the very state of facts in which a master is responsible. If the second purpose had been that of a third party; as, for instance, if a third party had asked the servant to carry a parcel for him to the forge, surely its effect could not have been to make the continuing purpose of taking the horses to the forge any less the purpose of the defendants."

⁹ *Croft v. Alison* (1821) 4 B. & Ald. 590.

¹ In *Joel v. Morrison* (1833) 6 C. & P. 501, a portion of the remarks made by Parke, B., in directing the jury were as follows: "If the servant, being on the master's business took a detour to call upon a friend, the master will be responsible. . . . If he was going out of his way, against his master's implied commands, when driving on his master's