

obstruction of the highway and causing plaintiff's injury, are clearly questions for the jury.

Unless, therefore, in this case, the jury can be said to have come to a wrong conclusion, the judgment must stand.

I think the findings of the jury were fully warranted by the evidence. The jury also found that there was not any street the plaintiff could have taken and avoided passing the motor. In view of that finding, I do not think there was any other evidence proper to be submitted to the jury on the question of contributory negligence; at any rate, counsel for the defendant did not insist upon such a question being submitted to the jury, and I think therefore there is no justifiable reason for granting a new trial.

I agree with my brother MacMahon in dismissing the appeal with costs.

MEREDITH, C.J. (dissenting), referred to the evidence, discussed the cases above cited, and concluded:—

I am not prepared to hold that, in the circumstances of this case, there was any reasonable evidence to go to the jury in support of the plaintiff's case.

There was, besides, much in the plaintiff's own testimony . . . to lead to the conclusion that the accident was due to his own want of care. He saw the motor-car standing where it was when he was about 20 rods away from it, and he saw also that his horse was frightened at it, and yet he pressed him on, intending apparently to force him to go past it.

The question of contributory negligence was not, however, left to the jury, and there is no finding as to it, nor was the jury asked to say whether the motor-car, placed where it was, was an object calculated to frighten horses of ordinary gentleness, though probably the answers of the jury, in view of the Judge's charge, involve a finding against the appellant on the latter question.

If it were not for the provisions of sec. 18 of the Act already referred to, I should be of opinion that there was no reasonable evidence to go to the jury in support of the plaintiff's claim.

Section 18, however, casts upon the owner or driver of a motor vehicle, where any "loss or damage is incurred or sustained by any person by reason of a motor vehicle on a