

and Shaw streets there is a white post, indicating a place at which cars stop to let down and take up passengers, at which, at the time in question, there was at least one if not more than one person standing, evidently intending to board the car when it came to a standstill. As the car approached Shaw street from the west, the brake was applied and the car's speed slackened to some extent, but, as it turned out, not with the intention of stopping for passengers.

It was allowed to proceed at a high rate of speed, and the deceased, who had come upon the crossing, was struck.

The condition of the roadway and the planking at the crossing evidently demanded the deceased's close attention at the moment, and may have prevented him from observing that the car had not stopped, as its earlier actions might not unreasonably appear to the deceased to indicate. He apparently did not discover that it was coming on until he had reached the rail, and he then made an ineffectual effort to clear the car.

It was for the jury to say whether, under all the circumstances, it was reasonable for him to conclude that the car would stop or had stopped, and that there was ample time for him to cross, or whether he deliberately took his chance of getting safely across before the car reached him.

Upon this their finding is adverse to the defendants' contention; and it cannot be said that there is not evidence upon which they could reasonably come to that conclusion.

The appeal must be dismissed.

MEREDITH, J.A.:—If the rule of the defendants requiring their motormen to reduce the speed of cars, and to keep them carefully under control, when approaching crossings and crowded places where there is a possibility of accidents—only a reasonable, if not really a necessary, precaution—had been observed, this unfortunate accident would not have happened; and so the finding of negligence in the running of the car at too great a speed at the time of the occurrence is not now called in question; but it is said that it was the negligence of the unfortunate man, who was killed in the collision, which caused the accident; or, at least, that he was guilty of contributory negligence.

There is much to be said in favour of these contentions; but they involve only questions of fact proper for the consideration of the jury; and the jury has unequivocally found against the defendants on these very questions, very fully and clearly presented to them at the trial.