

was still moving, he was thrown or dragged toward the timber heads, and his leg became entangled in the line, with the result already stated.

The mate swore that, before going to the stern to attend to throwing the line, he gave orders to have it properly coiled, and that he saw that it was done and the passengers moved away. There was evidence, on the other hand, that the coil was greatly disarranged and lying about loosely, that no orders were given, and that nothing was done to get it into proper shape.

The trial Judge properly ruled that plaintiff's action would only lie under the Workmen's Compensation Act, and he put questions to the jury framed with reference to the provisions of that Act.

The jury found that defendants were guilty of negligence causing the accident; that it consisted in the mate not instructing plaintiff to coil the rope properly, and in allowing the passengers to displace the coil of rope, causing the coils to be scattered. In answer to a question, "Was the plaintiff's injury caused by the negligence of any person in the defendants' employ who had any superintendence intrusted to him while in the exercise of such superintendence? If so, to whom?" they responded, "Yes; the mate." In answer to a question, "Was the plaintiff's injury caused by the negligence of any person in the service of the defendants to whose orders the plaintiff, at the time of the injury, was bound to conform and did conform? If so, whom?" they replied, "Yes; the mate." To the question, "Could the plaintiff by the exercise of ordinary care have avoided the accident?" they answered "No."

For defendants it was argued that there was no sufficient evidence to support these findings. But the most that can be said is that there was a conflict of testimony, and that while, as to some of the findings, if the jury had chosen to adopt the contrary view, it would have been well sustained, it cannot be said that there was not evidence on which they might reasonably come to the conclusion that they did.

The testimony of the captain and mate makes it clear that it was the latter's duty to see that the line was properly coiled, and that the passengers were kept away so as not to interfere with it. As already mentioned, the mate swore that he did so, but in this he was contradicted, not only by plaintiff but by others.