

to her, and did not bar a recovery against the street-car company, whose negligence directly contributed to the injury. The street-car company took this writ of error.

The opinion of the court was delivered by

JOHNSON, J.—The plaintiff, though a minor, was sixteen years old, and was, therefore, *sui juris*. She was fully capable of taking care of herself. Had her negligence or misconduct contributed to her injury, she could not recover, though the company was also guilty. The question fairly presented, therefore, is, whether a minor child, who being *sui juris* as to a reasonable care of her person and safety, lawfully and properly enters into a conveyance with her parent, and without fault on her part is injured by the negligence of a street railway company, is prevented from recovering against such negligent company because her parent has, by his negligence, contributed to the injury. In *Transfer Co. v. Kelly*, 36 *Ohio, St. 86*, this court held that the concurrent negligence of a street-car company, whose passenger the plaintiff was, with that of a transfer company, whereby there was a collision between the wagon of the latter with the car of the former, cannot be imputed to the passenger, so as to charge him with contributory negligence. In that case, as in this, the plaintiff was not in fault; but there, as here, it was contended that the plaintiff was so identified with, or related to, the railroad company by the contract of carriage that the fault of the carrier must be imputed to the passenger. Neither in that case nor in this was there any fault alleged against plaintiff for becoming a passenger. The two cases differ in two respects only. There the carriage was by a public carrier, presumably for hire or reward, while here it was by private conveyance, and presumably gratuitous. There the driver of the street-car was a stranger to the passenger, while here he was her father, with whom she was riding home. In that case it was held that the driver in the street-car was in no just sense the agent or servant of the passenger. If the driver had been under the control of the passenger, then it was said there might be some show of reason for holding