

The questions put to the jury and their answers, together with what took place when they brought them into Court, were as follows:—

(1) Was the injury which the plaintiff sustained caused by any negligence of the Grand Trunk Railway Company? A. Yes.

(2) If so, wherein did such negligence consist as to the Grand Trunk Railway Company? A. Did not sound proper warning.

THE CHIEF JUSTICE: Do you mean as to the bell or the whistle?

THE FOREMAN: The bell.

(3) Or was the plaintiff guilty of negligence which caused the accident or so contributed to it that but for his negligence the accident would not have happened?

THE CHIEF JUSTICE: Do you find that he was not guilty of negligence? You have not answered that.

THE FOREMAN: The railway.

THE CHIEF JUSTICE: You are satisfied that he did not cause the accident by his own negligence?

THE FOREMAN: Yes.

THE CHIEF JUSTICE: Then I will put down the answer "No."

(4) If you answer "Yes" to the last question, in what did his negligence consist? No answer.

The jury assessed the damages at \$1,254.

The Chief Justice added the words "as to bell" to the jury's written answer to question (2), and wrote "No" as the answer to question (3).

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

D. L. McCarthy, K.C., for the appellants.

F. W. Wilson, for the plaintiff, respondent.

MEREDITH, C.J.C.P., was of opinion, for reasons stated in writing, that the trial and the findings of the jury and the method by which they were elicited were in some respects unsatisfactory; but, after an exhaustive review of the evidence, he stated his conclusion that the verdict and judgment could not be interfered with on any ground of right which the appellants had to attack them. "Few indeed," he said, "should be the cases, of this character, in which a new trial should be granted in the absence of such a right—a new trial being such an extremely hard thing upon him who has regularly won the victory."

The appeal should be dismissed.

RIDDELL, J., read a judgment in which he reviewed the evidence