

BRITISH COLUMBIA ELECTRIC RAILWAY CO.
v. DYNES.

1910
*Oct. 10.
*Nov. 21.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH
COLUMBIA.

*Negligence—Operation of tramway—Passenger riding on platform—
Dangerous arrangement of car—Evidence.*

APPEAL from the judgment of the Court of Appeal for British Columbia(1), reversing the judgment of Irving J., at the trial, setting aside the verdict of the jury and dismissing the plaintiff's action with costs.

The action was brought by the widow of a person who lost his life in consequence of an accident which occurred while he was a passenger on one of the defendant company's tramcars. The evidence shewed that deceased was riding on the front platform of the car which was, at the time of the accident, running at the rate of three or four miles an hour; that, on approaching a switch, the car jolted and deceased was thrown off the platform underneath the wheels; that the doors of the car were open and were not protected by bars or other devices to secure the protection of passengers. The jury returned a verdict in favour of the plaintiff and for \$3,500 damages.

The trial judge set this verdict aside on the ground that no actionable negligence on the part of the company had been proved, and entered judgment dismissing the action.

By the judgment appealed from this judgment was reversed on the ground that there was some evidence

*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.

(1) 15 B.C. Rep. 429.

1910
B. C.
ELECTRIC
RY. Co.
v.
DYNES.
—

before the jury to support their finding of negligence against the company and also their finding against contributory negligence.

After hearing counsel on behalf of both parties on the appeal, the Supreme Court of Canada reserved judgment, and, on a subsequent day, dismissed the appeal with costs.

Appeal dismissed with costs.

Lafleur K.C. for the appellants.

Wallace Nesbitt K.C. for the respondent.
