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BOAT HORSE DROWNED AT APPLEY BRIDGE.

MOTOR CAR ON THE TOWING PATH.

A FATAL NOSE BUCKET.

ACTION AGAINST A STANDISH DOCTOR.

At the Wigan County Court, on Tuesday, before his Honour Judge Bradbury an interesting case was heard in which John Sutton, of Guild House, Tarleton, boat owner, claimed from Dr. J. H. Wilson of Standish the sum of £25 as damages for the loss of a boat horse which was drowned under peculiar circumstances in the Leeds and Liverpool Canal, near Appley Bridge, on 17th June last, owing it was alleged to the negligent driving of a motor car by the defendant or his servant. Mr. Overend Evans, barrister, appeared for the plaintiff. and Mr. J. Cecil Owen, solicitor, of Manchester, defended at the instance of the insurance company concerned.

Mr. Overend Evans, in opening the case, said the plaintiff was a boat owner, and a contractor for the Leeds and Liverpool Canal, and regularly carried stores along the canal. On 17th June one of plaintiff's boats, the "Henry," was coming empty along the canal from Tarleton to Wigan for cinders and was being drawn by an eight-year-old mare, which Mr. Sutton had bought two years previously for £40, and which had been regularly used for this class of work. In coming to Wigan the boat had to pass through the Appley Bridge locks, and a nephew of the complainant, John Sutton, jun., was in the boat stering, while a man named John Files was leading the mare on the towing path. The rope stretching between the boat and the mare was about 30 yards long. They had successfully negotiated the Appley Bridge lock when they noticed there was a motor car standing near the cottage, there. This motor car was off the, towing path, and whether it had a right to be there he did not know. He took it that the motor car had travelled the length of the towing path from the highway to the cottages. The chauffeur was seated in the motor car, and the doctor was apparently visiting a patient in one of the cottages. There was plenty of room besides the cottages but the road narrowed considerably as the towing path continued. The boat travelled all right until it got about, a hundred yards from the lock, and then John Sutton, who was on the boat saw the motor car coming along. It came until opposite the boat when Sutton said, "Wait a minute until we get to where the path is wider." For a minute the motor did stop and Seddon thought it was going to be all right, but it started again. The mare, which was perfectly quiet as a rule, hearing the sound of the motor began to be restive, and the man in charge of it put up his hand to stop the car, saying "Wait a bit." The chauffer, however, took no notice, but came along the towing path which at that place was only 13ft wide and dashed past the animal, which, having already showed signs of fright, turned round to see what the thing was, and in doing so its hind legs got off the bank into the canal The result was that the mare was drowned. The towing path at, the place was 13ft. wide, and allowing a foot on each side that only left 11ft for the car, the animal, and the man. It was obvious, one would think, that there was the greatest possible danger of the animal getting into the canal if it were frightened and the very thing happened that one would expect unless prudence was exercised by the driver of the motor car in abstaining from going on under the circumstances.

Mr Gilbert Wilson produced plans he had prepared showing the towing path and the canal in the vicinity of the place where the accident happened.

John Sutton, the plaintiff, gave evidence, and said he bought the mare two years before the accident for £40, and he thought £25 was a very low figure at which to assess his loss.

John Sutton jun., who was on the boat at the time of the accident, also went into the witness box, and corroborated the statement of plaintiff's counsel.

In answer to Mr. Owen, witness admitted that he had seen traps and lurries going along the towing path to the cottages at the place, but he had never seen motor cars. He didn't think there was any other way from Apply Bridge except along the towing path for vehicles to get to the cottages. The nose tin was on the mare's head, and it filled with water when the animal got into the canal. The mare's head wasn't under the water, but the plunging filled the nose-bucket, and perceiving the danger witness got a pole and tried to knock the water-filled bucket off.

His Honour asked Mr. Owen if he contended there was negligence in having the feeding bucket on the animal's nose.

Mr. Owen: I think it will be common ground that the animal could have been saved if the bucket hadn't been over its nose.

Witness, questioned further by Mr. Owen, said he had seen a horse in the canal before, and he had seen it got out. But it was seldom an animal got into the water with a bucket on its nose.

Mr. Owen: You will recognise the extreme danger. The bucket gets filled with water and suffocates the animal. Hadn't you a boat hook to take off the bucket with.

Witness: No, the rules won't allow us to carry boat hooks.

What did you do to try and get the animal out?—We got a pole and tried to knock the nose-tin off.

Witness questioned further, said the mare got into the middle of the canal where it was until it expired with the nose-tin on.

By Mr. Overend Evans: The animal only had the nose-tin on when it was having its feed, and it was feeding at the time of the accident.

John Files, the boatman, who was with the mare on the towing path, gave corroborative evidence. He had never seen a motor car there before, but other vehicles had passed often, and the animal had never been frightened.

Mr. Owen addressed his Honour before calling the witnesses for the defence. He failed to see, if their story was true, that there was any negligence on their part. At a point where there was room to pass the motor car did pass as quietly as possible, and it was after having passed that the animal slipped into the canal and was drowned.

His Honour asked Mr. Owen if he meant that the motor car had nothing to do with it.

Mr. Owen said he could only suggest that the horse must have been startled somewhat after the motor had passed. Supposing if had been any other vehicle, bassinette for instance, and the animal had taken fright, would the wheeler of the bassinette be guilty of negligence? He instanced also the case of a man ludicrously dressed passing along the canal bank. He thought it would be agreed that the defendants were reasonably using the towing path, and that there was room for them to pass, and he didn't see how they could be guilty of negligence.

Dr. Wilson, the owner of the motor car, said the car had been left just off the towing path while he made his visit at the cottages, and when he rejoined the motor the boat was in front and the, animal, which was about a hundred yards away, was on the extreme edge of the towing path. They came up behind the horse until they got to a place where he thought there was plenty of room to pass, and they passed, the first indication of the accident that they had being a splash. The wheel width of the car was 4ft. 6in., and it was 5ft over all. Witness didn't receive any warning from the boatman to stop until they got to a wider place. The animal began to go a little more quickly, but it wasn't plunging. If they had seen any indication of fright they would never have attempted to pass. They made the best attempts they could to get the nose-tin off with the pole they had, which was without a hook. He had constantly used his motor car to get to the cottages, having passed boat horses many a time before.

William Blackburn, the chauffeur, said be asked the man with the boat horse to wait and let the motor car go first, as he thought the boat might delay them. The man said something about not being able to afford to do that. Witness thought if the boat went first that they might have to wait until they got to the bridge to pass. If the boatman had put up his hand witness would have seen him but he didn't see him. They passed the mare at a place where there was room. The animal was just a little excited, going rather quick, that was all.

His Honour, in giving judgment, reviewed the evidence at some length, and said he was not going to say that the motor car was rightly on the towing path, but he would assume that it was, and it was quite obvious that the canal towing path was different from an ordinary highway. Unlike an ordinary highway, one side of the towing path was dangerous. They knew that horses soon became accustomed to motor cars, but the first few times most horses were frightened of motors passing. This rendered a canal bank exceptionally dangerous for a motor ear to pass along. It must be remembered too, that the primary use of the canal towing path was for horses towing boats, and he should say it must be clear to anyone going along the canal bank that horses there would be particularly liable to take fright at motor cars. He didn't blame the doctor, but he thought that both the doctor and the chaffeur were in a bit of a hurry, and under all the circumstances he came to the conclusion that that extreme care which he thought ought to be exercised was not exercised on this occasion. It was a dangerous thing to take a motor car along the towing path, and to do was to do it at one's own risk. It was said there was no other road, but the six hundred yards between the highway and the cottages could be walked in five minutes, and he thought under the circumstances it would be better to do this. There would be a verdict in favour of the plaintiff, and damage of £25 and costs.