

Hillsborough, }
May 7, 1912. }

SCULLY, *Adm'r*, v. MANCHESTER STREET RAILWAY.

CASE, for negligence of the defendants resulting in the death of the plaintiff's intestate. Trial by jury and verdict for the plaintiff. Transferred from the September term, 1911, of the superior court by *Chamberlin, J.*

One point in issue was the speed of the car which collided with the intestate. A witness for the plaintiff having testified that about the time of the accident he saw another car pass by at the rate of eighteen or twenty miles an hour, he was asked by the court whether the speed of the car was the subject of comment by himself or others. Subject to the defendants' exception, the witness was allowed to answer that it was.

Taggart, Burroughs & Wyman, for the plaintiff.

Burnham, Brown, Jones & Warren, for the defendants.

WALKER, J. The question was clearly competent for the purpose of testing the credibility of the witness. If he had answered the question in the negative, it would have had some tendency, under the circumstances, to show that he was exaggerating the speed of the car, while the affirmative answer which he gave tended to show he was telling the truth. As the testimony was at least competent for this purpose, its admission was not error, even if it was incompetent for other purposes. *Haskell v. Railway*, 73 N. H. 587; *Robinson v. Stahl*, 74 N. H. 310; *Conn. River Power Co. v. Dickinson*, 75 N. H. 353, 358.

Exception overruled.

All concurred.