Ins. Co., 312 Ill. 525, held that the contraction of typhoid fever may be regarded as accidental if the disease is contracted by accidental means. In *Frankamp v. Fordney Hotel*, 222 Mich. 525, an accident is defined to mean an unforeseen event occurring without the will or design of the person whose mere act causes it. That case specifically held that the contraction of typhoid fever from drinking water was an accidental injury. Other cases in accord are *Ames v. Lake Independence Lumber Co.*, 226 Mich. 83; *Wiltfong v. Lake Independent Lumber Co.*, 226 Mich, 91; *Brodin's Case*, 124 Me. 162; *Vennen v. New Dells Co.*, 161 Wis. 370; *Wasmuth-Endicott v. Karst*, 77 Ind. App. 279. Two cases, *contra*, *State ex rel Fairbault Woolen Mills et al. v. District Court of Rice County*, 138 Minn. 210, and *Industrial Commission v. Cross*, 104 Ohio St. 561, can be distinguished because of differences in the Workmen's Compensation Acts under which they were decided. It would seem to follow that the case of *John Rissman & Son v. Industrial Commission*, the instant case, is decided on well established principles and is in accord with modern decisions. F. A. E. '28.

MUNICIPAL CORPORATIONS—LIABILITY FOR TORTS—PROXIMATE CAUSE.—Plaintiff was riding a bicycle. The wheel of a passing truck dropped into a hole in the cartway causing mud to splash in the plaintiff's eyes. Small stones in the mud penetrated the plaintiff's eye and caused loss of sight of the eye. *Held*, in an action against the city, that the defect in the street caused the passing vehicle to splash the mud in the plaintiff's eye, that such defect was the proximate cause of the injury, and that the city was liable. *Stemmler v. City of Pittsburgh*, (1926) 287 Pa. 365, 135 Atl. 100.

This case is interesting because of the indirect nature of city's liability. Municipal corporations are bound to keep streets in reasonably safe condition. Failing to do so makes them liable for all injuries due to such negligence. *Bassett v. St. Joseph*, 53 Mo. 290. In *Twist v. City of Rochester*, 55 N. Y. S. 850, the court held that a city must use reasonable care in keeping its streets safe for public use, and if any injury results to a traveller it cannot claim exemption from liability because its streets are public. Authorities are practically uniform in holding a city liable for injuries resulting from its negligence in failing to keep streets in repair even though the defective street was not the sole cause of the injury. *Belleville v. Hoffman*, 74 Ill. App. 503. Thus a city was liable where the injury was produced as a result partly of a defect in the street, and partly of nature of the accident. *Lacon v. Page*, 48 Ill. 499; *Vogel v. City of West Plains*, 73 Mo. App. 588; *Barrett v. Savannah*, 9 Ga. App. 642, 72 S. E. 49; *Vogelsan v. City of St. Louis*, 139 Mo. 127, 40 S. W. 653. In *Joliet v. Shufelt*, 144 Ill. 403, 32 N. E. 969, the city was held liable where a street was negligently constructed and plaintiff was thrown from his buggy and injured even though the accident would not have occurred if the horses's harness had not broken. If, however, the injuries are a result of a collision with a fire-truck the city is not liable although a defect in the street contributed to the collision. *City of Louisville v. Bridwell*, 150 Ky. 589, 150 S. W. 672; Or if the plaintiff's negligence was the proximate cause of the injury there can be no recovery against the city even though the street was defective. *De Camp v. Sioux City*, 74 Ia. 392, 37 N. W. 971. E. C. F. '27.

NEGLIGENCE—MOTOR VEHICLES—DUTY OWED BY DRIVER TO SELF-INVITED GUEST.—The plaintiff in this case was a widow who was employed in Pine Bluff. The defendant was going to Little Rock by automobile and the plaintiff, who was anxious to see her children living there, obtained the defendant's permission to accompany him. The testimony introduced by the plaintiff tended to

show that the automobile in which they made the trip was turned over on account of fast driving by the defendant, which resulted in injury to the plaintiff. The trial court instructed a verdict for the defendant on the theory that the only duty he owed the plaintiff while riding in his automobile as a self-invited guest was to refrain from injuring her willfully or wantonly. The testimony failed to reveal any evidence of a willful or wanton attempt on the part of the defendant to injure the plaintiff. *Held,* error to instruct a verdict on this theory. Justice Humphreys was of the opinion that the driver of an automobile was required to exercise ordinary care in the operation thereof, to transport his passengers safely, whether guests by sufferance, self-invited guests, or invited guests. Two of the other Justices thought that in a gratuitous carriage for the sole benefit of the guest only slight diligence is required of the driver, and he becomes liable only for gross neglect. *Black v. Goldweber,* 291 S. W. (Ark.) 76.

The case is peculiar in that it presents the three theories of the liability of an automobile driver for injuries sustained by a guest in the course of the ride. The theory of the trial court is followed in only two or three jurisdictions. These decisions preserve the distinction between invitee and bare licensee and they apply the general rule of duty to bare licensees to owners and drivers of automobiles and other vehicles. The injured party having solicited the ride, the act of the driver in acceding to the request possessed none of the elements of a contract and the driver is liable only if the injury to the self-invited guest is inflicted willfully or wantonly. See *Lutvin v. Dopkus,* 94 N. J. L. 64; *Crider v. Yolande Coal & Coke Co.,* 206 Ala. 71 89 So. 285; *Reed v. Rideout's Ambulance,* 212 Ala. 428.

Another respectable minority of courts, clinging to the distinction between the degrees of care, hold that a gratuitous carrier owes only slight diligence to an invitee, and the driver of an automobile therefore is not liable for the injury of a guest unless such injury is the result of gross negligence on the part of the driver. See *Marcinowski v. Sanders,* (Mass.) 147 N. E. 275; *Massaletti v. Fitzroy,* 228 Mass. 487, 118 N. E. 168; *Epps v. Parish,* 26 Ga. App. 399, 106, S. E. 297.

By far the majority of the courts follow the rule as cited by Justice Humphreys, that the driver of an automobile is required to exercise ordinary or reasonable care in the operation thereof, to transport his passengers safely, whether guests by sufferance, self-invited guests, or invited guests. These decisions abolish the distinction between bare licensee and invitee and apply the rule to guests at sufferance as well as to guests by invitation. The driver, having accepted the passenger, owes him the duty of exercising reasonable care, and not unreasonably to expose him to danger and injury by increasing the hazard of travel. Recent decisions in the various states recognizing this rule are *Sheehan v. Foster,* 251 Pac. (Cal.) 235; *Dickerson v. Connecticut Co.,* 98 Conn. 87; *Munson v. Rupker,* 148 N. E. (Ind. App.) 169; *Mayberry v. Sivey,* 18 Kan. 291; *Beard v. Klusmeier,* 158 Ky. 153; *Jacobs v. Jacobs,* 141 La. 272; *Fitzjarrell v. Boyd,* 123 Md. 497; *Hemington v. Hemington,* 221 Mich. 206, 190 N. W. 683; *Rappaport v. Stockdale,* 160 Minn. 78, 199 N. W. 513; *Great Southern Lumber Co. v. Hamilton,* 137 Miss. 55, 101 So. 787; *Alley v. Wall,* 272 S. W. (Mo. App.) 999; *Liston v. Reynolds,* 69 Mont. 480, 223 Pac. 507; *Bauer v. Griess,* 105 Neb. 381, 181 N. W. 156; *Clark v. Traver,* 200 N. Y. S. 52; *Mitchell v. Southern Ry.,* 176 N. C. 645, 97, S. E. 628; *Grabau v. Pudwill,* 45 N. D. 423, 178 N. W. 124; *Farrell v. Solski,* 123 At. (Pa.) 423; *Leonard v. Bartle,* 135 At. (R. I.) 853; *Tennessee Central Ry. Co. v. Vanhoy,* 143 Tenn. 312, 226 S. W. 225; *Moorefield v. Lewis,* 96 W. Va. 112, 123 S. E. 564; *Glick v. Baer,* 86 Wis. 268, 201 N. W. 752; *Ryan v. Snyder,* 29 Wyo. 196, 211 Pac. 482. F. A. E. '28.