

3. **Mental annoyance.**—No allowance in the nature of "premium affectionis," or in consideration of the "pain that might be felt by the servant on the ground that he was attached to his place," should be made¹.

Where a man employed as a locomotive engineer under a contract by which he was to be paid mileage and to go out when called, held himself in readiness for a call for a long period of time, and was called only on a single occasion, when he was not permitted to go out, it was held that he was not entitled to recover for more than this one trip, and that he could not recover for mental worry suffered while he was waiting for a call to go, nor for the support of his family while waiting².

not only for the wages he would have earned under the contract, but for the inconvenience and suffering he sustained by reason of its breach. The evidence shows that appellant's agent was informed before appellee left his home that he was without money or means of any kind with which to procure food and lodging, and that appellant agreed and promised to furnish same, and to reimburse itself out of the wages to be earned by appellee under his contract of employment. Under these facts, we think appellee was entitled, upon the breach of the contract by the appellant, to recover not only for the wages shown to have been lost by him by reason of such breach, but also damages for the suffering sustained by hunger and exposure to the weather; such damages being clearly within the reasonable contemplation of the parties as a probable result of the breach of the contract."

¹ Erle, J., in his opinion delivered to the House of Lords in *Beckham v. Drake* (1849) 2 H.L.C. 576, (607). The learned judge sustained his position by the following arguments: "Indemnity for the loss of his bargain in respect of his labour would be settled on the same principle as for the loss of a bargain in respect of common merchandise. If goods are not delivered or accepted according to contract, time and trouble as well as expense may be required, either in getting other similar goods or finding another purchaser, and the damage ought to indemnify both for such time, trouble, and expense, and for the difference between the market price and the price contracted for. Loss of time and trouble would be occasioned by a breach of contract in respect of goods, as well as by a breach of contract in respect of employment; but they are such time and trouble as have a known merchantable value, and the compensation is measured wholly regardless of the consideration which guide where bodily or mental pain is the direct object of contemplation."

² *Texas C. R. Co. v. Newby* (186.) (Tex. Civ. App.) 41 S.W. 102.