

ends of the bone overlapping each other, and the limb unable to support her weight, so that she is and must probably for the remainder of her days be a cripple.

It is unnecessary of course to recapitulate all the evidence that has been given; but after a most careful analysis of it, it appears that the following facts are indisputably established:

1st. That at the time of the accident the patient's age was about 63 years, and that her health at that time was feeble. That she had had disease of the kidneys and heart, and had been treated for both.

*Vide* Mrs. Clark's, Dr. Chamberlin's, Mrs. McGarry's, Mrs. Gilbert's, Mrs. Wilson's, Mrs. Perkin's, and Rowell's evidence.

2ndly. That a short time after the accident and while she was suffering from it and under treatment by the Defendant she had an attack of cholera morbus.

This appears by the evidence of Mrs. McGarry, Mrs. Gilbert, Mrs. Wilson, and Dr. Cotton. And it is stated by one of his witnesses that the Plaintiff himself during the absence of the Doctor, took upon himself to loosen the bandages around the broken limb.

3rdly. That during the treatment of the patient no complaint was ever made by her, her husband or any of her family of the treatment she was receiving; but, on the contrary, according to the positive statements of Dr. Cotton, Mrs. Holman, and Mrs. Connor, both the Plaintiff and his wife acknowledged in the most explicit manner that the case had turned out much better than they ever expected it would; that they were perfectly satisfied with the Defendant's treatment and it certainly appears that if any injury had arisen to the limb, from the mitigated treatment having been adopted instead of the severe course that would have been followed in the case of a stronger patient, such mitigation of treatment was acceded to by the Defendant only in consequence of the heart-rending appeals of the patient herself, "for God's sake to save her life, and not mind her limb." That the case was one of great danger and delicacy there can be from the evidence no doubt whatever, and indeed an accident of this extreme severity, occurring to an elderly female of enfeebled constitution, might naturally, according to the evidence of Dr. Valiquet, and Dr. Cotton in his second deposition, have been expected to terminate fatally. It has terminated, however, if I have rightly appreciated the evidence, not only without loss of life, but even without amputation, though indeed with most seriously impaired usefulness of the limb.

It appears further that a shortening of the limb to a greater or less extent, is an unavoidable consequence in such cases of fracture as this.

According to the Law, then, so clearly laid down by the authorities