

the plaintiff, with his wife and two children, took tickets to H. on the defendants' railway. They were set down at E. It being late at night, the plaintiff could not get a wagon or accommodation at an inn. They had therefore to walk five or six miles on a rainy night, and the wife caught cold, was laid up in bed for some time, and was unable to assist her husband. Expenses were incurred for medical attendance. The jury found £8 for inconvenience suffered by having to walk home, and £20 for the wife's illness and its consequences. The Queen's Bench held the plaintiff could recover the £8, but not the £20, which was too remote. The action was for breach of contract to carry.

Mr. Justice Rose in his judgment says: "It was argued before us that on the authority of *Hobbs Case* such damages could not be allowed. The decision in that case has been practically overruled by the Court of Appeal in England, in the case of *McMahon v. Field*, L.R. 7 Q.B.D. 596, and has been doubted in *Tilly v. Doubleday*, Ib. 510; see also *McKelvin v. City of London*, 22 O.R. 70, *Connell v. Town of Prescott*, 22 S.C.R. 147, and *York v. Canada Atlantic S.S. Co.*, Ib. 167. "In the light of these authorities I venture to think the law is that where an act of trespass has been committed and an injury results from such act of trespass, the party suffering such injury is entitled to compensatory damages, no matter what may be the nature of the injury, if it be the natural or probable result of the wrongful act."

This statement of the general law is correct, but everything turns upon the question, Was the sickness the natural or probable result of the wrongful act, i.e., the putting the plaintiff off the car under the circumstances, and should this question be left to the jury? Mr. Justice MacMahon does not agree with the conclusion arrived at by the jury, but sustains it by saying that it was a question for them to decide, and having passed upon it he could not interfere.

Mr. Justice Burton, in the Court of Appeal, says: "I think it was proper to leave it to the jury to say whether the cold caught was the natural or probable result of the defendants' conduct, and I cannot say that their finding was unreasonable."