

seems opposed to all principles in regard to proximate cause. The chiefest exponent of this doctrine is a New York case,¹¹ which says: "Assuming that fright cannot form the basis of an action, it is obvious that no recovery can be had for injuries resulting therefrom. That the result may be nervous disease, blindness, insanity or even a miscarriage, in no way changes the principle. These results merely shew the degree of fright or the extent of the damages. The right of action must still depend upon the question whether a recovery may be had for fright. If it can be, then an action may be maintained, however slight the injury; if not, there can be no recovery, no matter how grave or serious the consequences."

Verily, this seems a play upon words and if it be true that the results of fright cannot be recovered for because mere fright is not actionable, then it makes no difference whether a wrong causing fright be wilful or reckless or that it arise out of unintentional negligence, and it comes down to the fact, that one knowing that fright will produce shock may intentionally or unintentionally frighten one with impunity.

Following this case, an Arkansas case¹² says: "Where the law allows no recovery for the mental anguish or fright, it would seem logically to follow that no recovery can be had for the consequences or results of the fright," and strange to say, in support of this proposition, there is cited, in addition to the New York case, the *Spade* case, *supra*, which case specially excepted "cases of acts done with gross carelessness or recklessness, shewing utter indifference to such consequences when they must have been in the actor's mind." This case proceeds on the theory that "as a general rule, a carrier of passengers is not bound to anticipate or to guard against an injurious result which would only happen to a person of peculiar sensitiveness," thus strongly implying that if the carrier knew to the contrary, he must anticipate or guard against an injurious result "to such a person, or make itself liable therefor."

11. *Mitchell v. Rochester*, *supra*.

12. *R. Co. v. Bragg*, 69 Ark. 402, 64 S.W. 226, 86 Am. St. Rep. 206.