

“which, though insufficient to exclude a statutory claim,
“may be legitimately pleaded in diminution of it, ought
“to be submitted to the jury, whose special function it is
“to assess damage, with such observations from the presid-
“ing judge as may be suggested by the facts in evidence.
“It appears to their Lordships that money provisions made
“by a husband, for the maintenance of his widow, in what-
“ever form, are matters proper to be considered by the jury
“in estimating her loss; but the extent, if any, to which
“these ought to be imputed in reduction of damages must
“depend upon the nature of the provision and the position
“and means of the deceased. When the deceased did not
“earn his own living, but had an annual income from prop-
“erty, one half of which has been settled upon his widow,
“a jury might reasonably come to the conclusion that, to
“the extent of that half, the widow was not a loser by his
“death, and might confine their estimate of her loss to the
“interest which she might probably have had in the other
“half. Very different considerations occur when the
“widow’s provision takes the shape of a policy on his own
“life, effected and kept up by a man in the position of the
“deceased William Jennings. The pecuniary benefit which
“accrued to the respondent from the premature death,
“consisted in the accelerated receipt of a sum of money,
“the consideration for which had already been paid by him,
“out of his earnings. In such a case, the extent of the
“benefit may fairly be taken to be represented by the use
“or interest of the money during the period of acceleration,
“and it was upon that footing that Lord Campbell, in
“*Hicks vs. Newport, etc., Railway Company*, suggested to
“the jury that, in estimating the widow’s loss, the benefit
“which she derived from acceleration might be compen-
“sated by deducting from their estimate of the future