

This ruling is certainly a harsh one, if the servant's injury was so severe that there was merely a chance of his recovery.

In another Scotch case where the action was brought by the widow of the employé, her forgetfulness caused by the grief of mind which she had felt since the accident was held not to be a reasonable excuse for omitting to send a notice (*m*). Considering the remedial character of the Act, this decision also seems to be scarcely commendable. It is submitted that in construing this provision, a court should not refuse to recognize the fact that violent grief sometimes produces a temporary incapacity to attend to the ordinary affairs of life.

The amendment to the Massachusetts Act, (Laws of 1888, ch. 155, sec. 1), declares that employés are excused from giving notice within the thirty days prescribed in the original statute, whenever from "physical or mental incapacity" it is impossible for them to give the notice within that time. Whether an employé is entitled to claim the benefit of this provision is a question of fact to be determined according to the evidence introduced (*n*).

11. Sufficiency of the particulars contained in the notice.—(*a*). *Generally*.—A writing set up as a notice will not be construed with technical strictness, but its contents should at all events shew that it is intended as the basis of a claim against the defendant, and that the information is given on behalf of the person who brings the suit (*a*). Any notice is sufficient which contains such particulars as will give the employer substantial notice of what has occurred, and thus put him in a position to make such inquiries as will enable him to come to trial prepared to meet the plaintiff's

(*m*) *Connolly v. Youngs & Co.* (1864) 22 Sc. Sess. Cas. (4th Ser.) 80.

(*n*) In a recent case, where the servant had died from the effects of the injury, the widow of the decedent testified that he was in bed almost two months after the accident; that during most of this time he knew her and talked to her, and that a good deal of the time he was conscious and knew what he was doing. The decedent's son also testified that he saw his father almost every day after the accident, and that he was conscious nearly all the time. It was held that there was no valid excuse for the failure to serve the notice. *Ledwedge v. Hathaway*, (1898) 170 Mass. 348, 49 N.E. 6, 6. An instruction with reference to this provision which stated that an employé was not excused unless he was both "mentally and physically disabled" has been held correct. *Cogan v. Burnham* (1900) 56 N.E. 585, 175 Mass. 391. But *quere*, considering that the disjunctive "or" is used in the statute.

(*a*) *Driscoll v. Fall River* (1895) 163 Mass. 105, 39 N.E. 1003.