Rowley v. *London and North-Western Railway Company*, L. R., 8 Ex. 231, an action brought on the 9 and 10 Vict., ch. 93, that a jury in these cases "must not attempt to give damages to the full amount of a perfect compensation for the pecuniary injury, but must take a reasonable view of the case, and give what they consider, under all the circumstances, a fair compensation." And this is in effect what was said by Field, J., to the jury in the present case. But we think that a jury cannot be said to take a reasonable view of the case unless they consider and take into account all the heads of damage in respect of which a plaintiff complaining of a personal injury is entitled to compensation. There are the bodily injury sustained, the pain undergone, the effect on the health of the sufferer, according to its degree and its probable duration, as likely to be temporary or permanent; the expenses incidental to attempts to effect a cure, or to lessen the amount of injury; the pecuniary loss sustained through inability to attend to a profession or business, which again may be of a temporary character, or may be such as to incapacitate the party for the remainder of his life. If a jury have taken all these elements of damage into consideration, and have awarded what they deemed to be fair and reasonable compensation under all the circumstances of the case, a court ought not, unless under very exceptional circumstances, to disturb their verdict. But, looking to the figures in the present case, it seems to us that the jury must have omitted to take into account some of the heads of damage which were properly involved in the plaintiff's claim. The plaintiff was a man of middle age and of robust health. His health has been irreparably injured, to such a degree as to render life a burden and source of the utmost misery. He has undergone a great amount of pain and suffering. The probability is that he will never recover. His condition is at once helpless and hopeless. The expenses incurred by reason of the accident have already amounted to £1,000. Medical attendance still is, and is likely to be for a long time, necessary. He was making an income of £5,000 a year, the amount of which has been positively lost for sixteen months, between the accident and the trial, through his total incapacity to attend to his professional business. The positive pecuniary loss thus sustained all but swallows up the greater portion of the damages awarded by the jury. It leaves little or nothing for health permanently destroyed and income permanently lost. We are, therefore, led to the conclusion not only that the damages are inadequate, but that the jury must have omitted to take into consideration some of the elements of damage which ought to have been taken into account. It was contended on behalf of the defendants that, even assuming the damages to be inadequate, the court ought not on that account to set aside the verdict and direct a new trial, inadequacy of damages not being a sufficient ground for granting a new trial, in an action of tort, unless there has been misdirection, or misconduct in the jury, or miscalculation, in support of which position the cases of *Rendall* v. *Hayward*, 5 Bing. N. C. 424, and *Forsdike* v. *Stone*, L. R., 3 C. P. 607, were relied on. But in both those cases the action was for slander, in which, as was observed by the judges in the latter case, the jury may consider not only what the plaintiff ought to receive, but what the defendant ought to pay. We think the rule contended for has no application in a case of personal injury, and that it is perfectly competent to us, if we think the damages unreasonably small, to order a new trial at the instance of the plaintiff. There can be no doubt of the power of the court to grant a new trial where in such an action the damages are excessive. There can be no reason why the same principle should not apply where they are insufficient to meet the justice of the case. The rule must, therefore, be made absolute for a new trial.

Judgment for plaintiff.

ENGLISH COURT OF APPEAL.

July 28, 1879.

PHILLIPS v. SOUTH WESTERN RAILWAY COMPANY.

This was an appeal by the defendant company from the above decision of the Queen's Bench Division.

JAMES, L. J. In this case we are of opinion that we cannot, on any of the points, differ from the judgment which the Queen's Bench Division have arrived at in this matter. With regard