

child birth was the proximate cause of the injury or the mental suffering on account of the absence of the husband," caused by the failure to deliver the telegram. In the Mississippi case the court sustained a verdict of \$2,050.00 which held that the failure of the boat to stop at the landing was the proximate cause of the injury, and not the delicate and enfeebled condition of the wife. Where the message itself is evidence of its importance and announces "the death, etc.," it is not necessary that it should reveal the kinship of the addressee to the deceased.

"The suit is not for the death of the relative or friend, but for the disappointment and mental anguish in not being permitted to see him in death, and of being deprived of the privilege of paying our respect and love to his memory by attending his funeral obsequies. This is a natural feeling in the heart of every loving wife, relative and friend, and it is this natural feeling the defendant company outrages by violating its contract. Its negligence in failing to deliver the telegram within a reasonable time alone causes this mental suffering. That the telegram announces a fact that brings great sorrow to plaintiff cannot affect the damage sought to be recovered. It was the defendant's contractual duty to have ameliorated that sorrow; instead of which it wrongfully did that which aggravated the sorrow. It was bad enough, and sad enough at most; but the telegraph company by its wrong, makes it many times worse. It is not difficult to disassociate the two feelings, and the jury can be instructed not to take into account the mental sorrow caused by the death of the relative or friend. Let us examine the question now on principles controlling in actions *ex delicto*. The telegraph company is a common carrier of intelligence and owes a general duty, under the law, to both the sender and sendee to transmit and deliver its messages within a reasonable time. A large class of its business consists in forwarding messages of a social character, of sickness, death, etc. These messages, of all others, are most urgent and important. It deals alone with the feelings, the sentiment, the mental side of its patrons. The telegrams on their face give the defendant company notice of their urgency, their supreme importance, and the character of the subject matter they are called on to deal with. They are chargeable with the knowledge that no pecuniary benefits are within the contemplation of the parties; that no pecuniary standard can be appealed to in measuring the damage that will be inflicted by a