The Legal News.

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DAMAGES FOR PERSONAL INJURIES.

At pp. 105–107 of vol. 2, Legal News, will be found the report of a remarkable case, *Phillips v. South-Western Railway Co.*, in which the English High Court of Justice, Queen's Bench Division, set aside a verdict on the ground of insufficiency of damages, and the decision was affirmed by the Court of Appeal. The verdict was for $35,000, but this sum was held to be so utterly inadequate as to justify the ordering of a new trial. The plaintiff was a London physician who was so severely injured whilst travelling on the railway as to be incapacitated both mentally and physically from pursuing his profession; and, according to the medical evidence, his life must in a very short time be terminated in consequence. It was shown that his average professional income for the ten years preceding the accident was $25,000 a year. The jury were supposed to have improperly taken into account that he had a private income of $17,500 a year, as they allowed him only $35,000, which was about what he would have earned in the year and four months between the accident and the trial, in addition to the $5,000 of expenses which had been incurred before the trial took place. The new trial has resulted in a verdict for $80,000, equal to three years' income and the $5,000 expenses, and this verdict has been sustained by the Courts.

The case being one of a rare class in which juries have been held too niggardly in the award of damages, it has received a corresponding amount of attention. Sir Alex. Cockburn remarked upon the difficulty of laying down any precise rule as to the measure of damages in cases of personal injury. There are personal injuries, he said, for which no amount of pecuniary damages would afford adequate compensation, and the attempt to award full compensation might be attended with ruinous consequences to defendants. The general rule was held to have been correctly stated to the jury at the trial, to the following effect: 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." The sum of $35,000 was held, under the circumstances, not to be a reasonable compensation, and the second verdict, awarding $80,000, has received the approval of the Court.

It is possible that this case, which has been much discussed in legal circles, has had some influence on the decision of the Privy Council in the case of *Lambkin & South-Eastern Railway*, an appeal from a judgment of the Queen's Bench at Montreal, which set aside as excessive a verdict of $7,000 for personal injuries sustained by the plaintiff, Lambkin. A cable message received on Tuesday states that the Privy Council has reversed the judgment of the Canadian Court of Appeal, the effect of which, we suppose, is to maintain the verdict on the first trial. The grounds of the decision, however, are not yet known on this side, and we, therefore, defer notice of it for the present.

THE AWARD OF COSTS.

A remarkable illustration of what was said on p. 1 of this volume, as to the freedom with which the discretion as to costs is exercised, is afforded by a case decided on Tuesday last by the Court of Appeal—*McClanaghan* v. *St. Ann's Mutual Building Society*, a note of which will appear in another issue. The case raised pointedly the question of the constitutionality of the Dominion Act permitting Building Societies to go into liquidation. Mr. Justice Torrance in the Court below was against McClanaghan on his pretention that the Act was *ultra vires*. (See 2 Legal News, p. 413.) In the meantime the local legislature went to work and re-enacted the Dominion Act, and ratified all that had been done under it; but reserved the rights of parties in pending suits. McClanaghan took his case to appeal, and the Court of Appeal has now reversed the decision as to the constitutionality of the Dominion Act, and holds that it was *ultra vires*, thus maintaining the correctness of the position taken by McClanaghan at the time he instituted his action. But the local legislature having legalized what had been done, there remained only the question of costs. The local Act had re-