

sprained his ankle, and consequently was confined to the house long enough to lose two weeks' salary (at the rate of \$1,080 per annum). The court considered the jury far too liberal. *Spicer v. Chicago, etc., Ry.*, 29 Wis. 580. A truck went over the ankle of a boy of fourteen, and through the improper conduct of the surgeon called in to attend it (as the plaintiff's witnesses swore) the foot mortified and had to be amputated. The jury gave the boy a verdict for nominal damages, and the court would not grant a new trial on account of the smallness of the damages, because the judge who tried the case was not dissatisfied with the verdict. *Gibbs v. Tunaley*, 1 C. B. 640.

We do not know exactly in what part of the body lie hid one's "feelings." Wherever they are, they are not much thought of; and even a "shock to the feelings" of a wife by her husband's death cannot be considered in awarding damages. *Nashville, etc., Ry. v. Stevens*, 9 Heisk. 12.

In the good old days of the Saxons, the *bot*, or penalty, for the smallest disfigurement of the face was three shillings; the same for breaking a rib; the breaking of a thigh was twelve shillings; the robbing a man of his beard, twenty shillings; and a front tooth was valued at six shillings. *Taswell-Langmead*, p. 41.

And now a word or two as to what should be taken into account by a jury in estimating the amount of damages to be awarded for personal injuries. The American courts have held that the loss of time caused by the injury is proper to be considered. *Jones v. Northmore*, 46 Vt. 587. The age and the situation in life of the injured one; the expenses incurred; the permanent effect upon the plaintiff's capacity to pursue his professional calling, or to support himself as before times (*Whalen v. St. Louis, etc., Ry.*, 60 Mo. 323; *Indianapolis, etc., v. Gaston*, 58 Ind. 224), are also essential factors. Bodily pain, too, is to be considered and compensated for; and so much of mental suffering as may be indivisibly connected with it, but mental anguish and agony cannot be measured by money—the courts consider—and there is no established rule authoritatively commanding such a futile effort. *Johnson v. Wills*, 6 Nev. 254. It is difficult to measure even excessive pain against money. *Campbell v. Portland Sugar Company*, 62 Me. 552; *Redfield on Railways*,

Vol. II. p. 286. In fact, they say that one should get compensated for all injuries that are the legal, direct and necessary results of the accident. *Curtis v. Rochester & S. Ry.*, 20 Barb. 282. Loss of anticipated profits from real estate on land was held a proper subject for compensation to a land speculator. *Penn. Ry. v. Dale*, 70 Penn. St. 47. Disfigurement was also held a proper point to be considered. *The Oriflamme*, 3 Sawyer, 397.

The late case of *Phillips v. The South Western Railway Company* fully enunciates what, in the estimation of the English judges, are to be considered in fixing the amount of damages. *Cockburn, C. J.*, on a motion for a new trial for insufficiency of damages, said that the heads of damages were 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; the pecuniary loss sustained through inability to attend to a profession or business; as to which, again, the injury may be of a temporary character, or may be such as to incapacitate the party for the remainder of his life. *L. R.*, 4 Q. B. D. 407.

In the Common Pleas Division on a motion, after a second trial, to set aside the verdict for excessive damages, *Grove, J.*, said, "The plaintiff is entitled to receive at the hands of the jury, compensation for the pain and bodily suffering which he has undergone for the expense he has been put to for medical and other necessary attendance, and for such pecuniary loss as the jury (having regard to his ability and means of earning money by his profession at the time) may think him reasonably entitled to." "Damages are awarded as a compensation for the injury and loss sustained; they are not to be given from motives of charity and compassion." *Lopes, J.*, was of the same opinion. And in the Court of Appeal, *Bramwell, L. J.*, said that he was, in common with other judges, accustomed to direct juries as follows: "You must give the plaintiff a compensation for his pecuniary loss, you must give him compensation for his pain and bodily suffering; of course, it is almost impossible to give an injured man what can be strictly called a compensation; but you must take a reasonable view of the case, and must consider under all the circumstances