

as follows: "To put the matter in condensed form, it appears that no recovery can be had for fright alone, caused by less than such gross negligence on the part of one acquainted with the condition of the plaintiff, or with the facts and circumstances surrounding the plaintiff, as would authorize the conclusion that the defendant must have known that certain definite physical injuries would naturally flow from or follow the fright or nervous excitement brought about by him, or unless the fright, resulting in physical injuries or impairment of health should have been brought about deliberately, maliciously or wantonly by the defendant through an utter disregard of the natural and probable consequences to the injured party, or from a wilful intent to so injure the party."

Here it is perceived, injury to the feelings is spoken of as a physical fact and in no way of there being a sense of humiliation and disgrace, whether the wrong be intentional or not. It is treated like an external wound or hurt, but there seems a distinction as to negligence being gross or not, though in ordinary negligence there might be the same knowledge of conditions. I doubt greatly whether this distinction exists, as every negligence should be deemed such, where any hurtful consequences may be contemplated therefrom.

For example, in the North Carolina case,¹⁹ cited by Georgia Court of Appeals, the matter is put a little differently. Thus it was said: "It must also appear that the defendant could or should have known that such negligent acts would, with reasonable certainty, cause such result, or that the injury resulted from gross carelessness or recklessness, showing utter indifference to the consequences." In this case it appears that there must be knowledge as to an act merely negligent, but in gross carelessness or recklessness there need be no knowledge. In the Georgia case there must be knowledge as to the accompaniment of gross negligence.

Two later North Carolina cases²⁰ enforce the rule laid down

19. *Watkins v. Kaolin Mfg. Co.*, 131 N.C. 536, 42 S.E. 983, 60 L.R.A. 617.

20. *Drum v. Miller*, 135 N.C. 208, 47 S.E. 424, 65 L.R.A. 890, 102 Am. St. Rep. 528; *Kimberly v. Howland*, N.C., 55 S.E. 778, 7 L.R.A. (U.S.) 545.