

Justice Britton awarding the plaintiff \$300 damages for injuries caused by the negligence of the defendant's servant in operating an automobile. The appeal is for a new trial or to vary the judgment by increasing the damages. The defendant does not appeal against the finding of negligence; so that the sole question for consideration is one of damages.

The collision in which the plaintiff was injured occurred on the 24th May, 1911; the plaintiff was thrown or pulled from his rig, and sustained several minor bruises and suffered considerable pain and distress in his chest and sides, but did not consult his physician until the 31st May. On that date, the physician says, the plaintiff was in quite a nervous condition. . . . In the examining I found that his nervous system seemed to be under a bit of a shock, and it seemed to disarrange his system sufficient to require some little help." The pain and distress continued to increase, and on the 10th June acute pneumonia, accompanied with pleurisy, developed. The learned Judge, accepting the evidence of two experts, found that this condition resulted from the injuries caused by the negligence found against the defendant.

The plaintiff was confined to his bed between three and four weeks, and was for a long time afterwards very weak and unable to do any heavy work. His physician examined him on the 12th September, and says that, at that time, "his heart was displaced to the right about an inch, from this pleural effusion in the pleural sac. It was very irregular and very rapid, and his nervous condition was very bad; he was extremely nervous."

On the 14th November, his physician again examined him, and found him very much improved, but says that "he had not regained his usual vigour; he was still weak."

The plaintiff is sixty-two years old, and before the casualty had been an unusually strong, healthy man. The learned Judge finds that at the trial he appeared to be as well as ever, although the plaintiff himself asserted that he had not regained his normal strength.

The plaintiff's actual expenditures directly attributable to the casualty would be about \$100. He was unable to work or to devote himself to the superintendence of work on his farm at a time of year when both such work and supervision were greatly needed for the profitable operation of his farm; and, while the consequent actual loss is difficult to determine, I am satisfied, after a careful perusal and consideration of the evidence, that \$200 would not be an excessive sum at which to fix that loss.

For several weeks after the accident, the plaintiff admittedly