

Victorian Railways v Coultas (1888) PC 21 Jan 1888

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Note: this case is an early case that has been largely overruled, however it is useful to show the history of the “nervous shock” doctrine.

Facts

- Mrs and Mr Coultas were riding together in a horse-drawn buggy between Melbourne and Hawthorn.
- Part of the journey meant they had to cross a railway line.
- A conductor/guard was on the gate, and was responsible for checking whether any trains were coming. He did so and opened the gate.
- He evidently had not seen a train incoming, and it missed hitting the buggy by mere seconds, as the horse bolted across the railway line.
- Mrs Coultas fainted, suffering severe nervous shock as she thought she was about to die.
- She sued the negligent gatekeeper’s employer under vicarious liability.

Issue

- Could the Plaintiff sue for nervous shock?

Held

- The court refused to allow Mrs Coultas to recover for nervous shock
- They stated that they did not believe that the shock flowed from the gatekeeper’s negligence, and that to allow it would “open the floodgates” for claims.
- They declined to establish such a precedent and upheld the appeal by Victorian Railways.

Quotes

“Damages arising from mere sudden terror unaccompanied by any actual physical injury, but occasioning a nervous or mental shock, cannot under such circumstances, their Lordships think, be considered a consequence which, in the ordinary course of things, would flow from the negligence of the gate-keeper. If it were held that they can, it appears to their Lordships that it would be extending the liability for negligence much beyond what that liability has hitherto been held to be.” (Sir Richard Couch)