

APPELLATE JURISDICTION. (a)

Referred Case No. 48 of 1871.

Y. ANNAJI RAO

against

RAGUBAI *alias* SITHABAI,

and JIVUBAI.

Regulation XXXIV of 1802 having been repealed, a claim, in a suit between Hindus, for an amount of interest exceeding the principal sum due, is maintainable.

1871.  
November 20.  
L. C. No. 48  
of 1871.

THIS was a case referred for the opinion of the High Court by H. P. Gordon, Acting Judge of the Court of Small Causes at Chittur, in Suit No. 524 of 1871.

The suit was brought to recover Rs. 251, being the principal (Rs. 100) and interest (Rs. 151) due on a bond dated 29th February 1865. The Judge doubted whether, the suit being one between Hindus, interest exceeding in amount the principal sum sued for could be recovered, and he referred the following question,—Whether, in a suit between Hindus, on a bond conditioned for the payment of a certain sum with interest, a claim for an amount of interest exceeding the principal is maintainable?

No counsel were instructed.

The Court delivered the following

JUDGMENT :—A practice long existed of never either asking or decreeing more than an amount of interest equal to the principal. That practice, however, was based upon a special provision of the law which is repealed (Sec. IV, Reg. XXXIV of 1802). That Regulation was repealed in 1855, but the former practice still continued. We are unable to say that as positive law this limitation now exists. As to the Hindu law, it is not binding as Law upon such matters in the Mofussil.

(a) Present : Holloway and Kindersley, JJ.

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