

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Bridgman, Appellant, v. Ram Surroop Mun Tewaree and others, Respondents, from the late Court of Sudder Dewanny Adawlut of the North-Western Provinces of Bengal; delivered on the 22nd February, 1867.*

Present:

THE MASTER OF THE ROLLS.

SIR JAMES W. COLVILLE.

HON. SIR RICHARD T. KINDERSLEY.

SIR LAWRENCE PEEL.

IN this case the Plaintiff brought an action against a number of persons to recover the damage sustained by him by reason of a trespass committed by the Defendants, with much tumult and violence, the effect of which trespass was great injury to his property. He alleges that the damage he sustained amounted to Rupees 58,650 : 15 : 2. The damage thus alleged may be ranged under four heads:—1, the value of what may be called the plundered property; 2, a claim in respect of the then growing crop of indigo on the ground; 3, a claim in respect of the prospective crop which was not then sown, but which the Plaintiff says would have been sown, and would have been converted into indigo; and 4, a claim in respect of loss of revenue, which he says he would have received from the villagers or ryots who were scared away by reason of this trespass and tumult.

With respect to the first head of damage—the plundered property—the Plaintiff is clearly entitled in respect to that. Indeed that is not now in controversy.

Their Lordships are of opinion that the Plaintiff is entitled to recover in respect of the then growing crop. They consider that to be a damage so distinctly consequential upon the trespass, as to entitle the Plaintiff to recover.

Their Lordships are further of opinion that the potential profit, if I may use the expression, that is, the profit which might have arisen from a crop that might have been subsequently sown, is not such a consequential damage as that the Plaintiff is entitled to recover in respect thereof.

With regard to the damage on account of the villages being deserted, and the rents lost, that claim was fairly given up by the Counsel, and their Lordships need not say anything more upon that.

The Plaintiff being entitled to recover in respect to the first two heads of damage that have been mentioned, the question then is, what is the aggregate amount of damage proved under those two heads? The amount of damage in respect of the plundered property is Rupees 26,150 : 15 : 2 ; the damage in respect of the growing crop, that is, the second head of the damage, amounts to Rupees 17,600 ; the aggregate of those two sums is Rupees 43,750 : 15 : 2. The Plaintiff laid his damages at Rupees 35,000. Of course he cannot recover more than the amount at which he has laid his damages. The amount of damage which their Lordships consider he has proved, is very much larger than the Rs. 35,000 at which he has laid his damages.

If, then, there were nothing more in the case, their Lordships would be clearly of opinion that the Plaintiff would be entitled to recover the Rs. 35,000 at which he had laid his damage ; but the suit was instituted he compounded with fifteen of the Defendants for a sum of Rs. 1460. In the print it is stated to be Rs. 1400, but upon looking at the petitions stating the different compromises, they amount to Rs. 1460. The question which was raised and fully argued by the learned Counsel on the question of that amount of compromise was, whether it should be deducted from the whole Rs. 43,750 : 15 : 2, or from the Rs. 35,000, or, as it was very ingeniously argued, deducted *pro rata* from all the different heads of damage? Their Lordships are of opinion that it ought to be deducted from the Rs. 35,000 at which the damages were laid, for this reason : having laid his damages at Rs. 35,000, and then having, after the suit was instituted, received from some of the guilty parties Rs. 1460, he has been to that extent satisfied a portion of the Rs. 35,000 which he sought to recover.

The result, according to their Lordships' view, will be this,—that he is entitled to recover Rs. 35,000 *minus* Rs. 1460 which he has received on that account, that is, he is entitled to recover Rs. 33,540.

Their Lordships are further of opinion that he is entitled (as the Zillah Court gave it to him) to interest at one per cent. *per mensem*, in other words, twelve per cent. *per annum*, from the date of the Sudder Ameen's decree; and with respect to costs their Lordships are of opinion that there ought to be no costs, the plaintiff having laid several grounds of appeal, and having succeeded in one only and failed as to the others.

*Mr. Leith.*—I think your Lordships will find that the interest was given by the Sudder Ameen from the date of his decree, but the Sudder Court have reversed that and given it from the time of the trespass. That was one of our grounds of appeal from the Zillah Court to the Sudder Court, and the Sudder Court set aside that part of the decree of the Zillah Court.

*Sir L. Peel.*—They gave it from the trespass?

*Mr. Leith.*—Yes, because we had lost the things then; and if it was a damage done then which they were answerable for, we were entitled to the interest.

*Sir J. W. Colville.*—The anterior interest would be in the nature of damage, and you lay the whole damages at Rs. 35,000.

*Master of the Rolls.*—It is to be from the time of the Judgment. We have considered the question.

*Master of the Rolls.*—You will have the costs of the Court below.

*Sir R. T. Kindersley.*—Yes; but not the costs of the appeal here.

*Master of the Rolls.*—The costs in both the Courts below.



