

*Judgment of the Lords of the Judicial Committee
of the Privy Council, on the Appeal of Carimjee
Jafferjee v. Saina Saina Shaik Ally from the
Supreme Court of the Island of Ceylon ; delivered
Friday 24th March 1899.*

Present :

THE LORD CHANCELLOR.

LORD WATSON.

LORD HOBHOUSE.

LORD MACNAGHTEN.

LORD DAVEY.

[*Delivered by Lord Davey.*]

THIS case comes before their Lordships in circumstances which suggest to them that it has not been disposed of by the learned Judge who tried the action in a way which is altogether satisfactory. The judgment of the learned Judge is open to the criticism that it is to a certain extent founded upon conjecture, and the concurrence of the majority of the Judges in the Court of Appeal really does not carry the case very much further than the judgment of the District Judge.

In these circumstances the only course that their Lordships could take would be to direct a new trial, but they cannot be sure that such a course in a case like the present, which is solely a dispute of fact, and depends entirely upon the conflicting evidence of natives, would more certainly do justice between the parties, than to confirm the judgment. They will, therefore, adhere to the rule which they have laid down for themselves, and which they usually find it useful

to follow in cases of this description, namely, not to disturb a judgment of the Court below on a question of fact as to which there are concurrent findings, and on this ground they will humbly advise Her Majesty that the Appeal ought to be dismissed, and the Appellant must pay the costs of it.