

to a greater extent than the amount of principal. But I apprehend that this state of things was altered by the introduction of Act XXVIII. of 1855, which repeals the very section I have just quoted; and declares in its stead (Sec. 2) that 'In any suit in which interest is recoverable, the amount shall be adjudged or decreed in the Court at the rate (if any) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.' I consider, in the first place, that, by the repeal of the law which declared that the rule of Hindú Law shall be maintained in all applicable cases, it was intended that that rule should no longer be maintained; and, in the second place, that, to say that Sec. 2 of Act XXVIII. of 1855 says only '*at the rate,*' and therefore the rule of Hindú Law may be applied, is apparently playing with words. To me it appears that, under the last mentioned Act, claims to interest expressly agreed upon, ought only to be rejected when barred by the Limitation Act."

1866.  
August 23.  
Referred Case.

The case was heard before COUCH, C.J., and NEWTON, J.

PER CURIAM:—On the 1st question the Court are of opinion that the rule of Hindú Law is that, as was decided in Special Appeal No. 467 of 1863 (*a*), no greater amount of interest than the principal sum can be recovered at any one time.

On the 2nd question the Court are of opinion, in conformity with the decision of the High Court made on the 23rd of March 1863, that Act XXVIII. of 1855 has not, by repealing Sec. 12 of Reg. V. of 1827, or otherwise, altered the above rule of Hindú Law.

(*a*) 1 Bom. H. C. Rep. 47.



*Referred Case.*

RAMKRISHNABHAT *v.* VITHOBA bin MALHA'RJI'.

CASE referred for the decision of the High Court, by the Acting Judge of the Court of Small Causes at *Puná*, under Sec. 13 of Act XLII. of 1860.

1866.  
March 23.  
Referred Case.

1863.  
March 23.  
Referred Case.

The case was heard before SAUSSE, C.J., FORBES and  
NEWTON, JJ.

PER CURIAM:—It is considered that the Acting Judge of the Small Cause Court decided correctly, in holding that, as against a Hindú claiming the benefit of Hindú Law, the plaintiff was not entitled to recover interest beyond the amount of the principal sum secured by the bond or promissory note, which was the subject of the action.

Although Reg. V. of 1827 is now repealed, the Court consider that Sec. 12 contains what amounts to a legislative declaration of what the Hindú Law upon this subject is in the following words: "This Regulation is not meant to interfere with the rule of Hindú Law, which limits the interest of money to the amount of the principal."

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NOTE.—"Brihaspati: 'On the precious metals [or gems] the interest may make the debt double.' \* \* \* \* \* *Kátyáyana* says: 'For gems, pearls and coral, for gold and silver \* \* \* the interest stops when it doubles the debt.' \* \* \* *Vishnu*: 'On precious metals [or gems] the highest interest shall make the debt double.' \* \* \* \* \* So also *Manu* (Ch. VIII. v. 151): 'Interest on money received at once [not month by month, or day by day, as it ought]† must never be more than enough to double the debt, [this is, more than the amount of the principal paid at the same time.]† But in any one case where it is realized [by degrees] or at various times also, more than this legal or allowable interest may be levied, according to *Vijnánes'war*, and other authorities."—*Vyāvahára Mayákhá*, Ch. v., Sec. II., v. 6, 7; *Stokes, H.L. Bks.* pp. 112—113.

"Stipulated interest beyond the legal rate, and different from the [preceding] † rule is invalid."—*Manu*, translated by *Sir Wm. Jones*, Ch. VIII., v. 152.

See also 1 *Strange, H. L.* 299, quoting 1 *Cole. Dig.* 133 et seq.; and *Steele, L. & C. of H. Castes*, pp. 78 and 260.—ED.

† The Gloss of Kullúka-bhatta.