

(1933) 10 AHC CK 0049
In the Allahabad High Court

In Re: Dehra Dun Mussoorie Electric Tramway Co. Ltd.

Date of Decision : 27-10-1933

Acts Referred:

Citation : AIR 1934 All 189

Hon'ble Judges : Young, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Young, J.—This is a report by the Official Liquidators of the Dehra Dun Mussoorie Electric Tramway Co., Ltd. (in liquidation) with regard to the disposal of a surplus in their hands after paying the creditors. The creditors themselves claim that they should be allowed interest from the date of the winding up, up to the date of payment. The preferential share-holders, on the other hand, oppose this application. Mr. Section K. Dar on behalf of one of the large creditors Messrs Dun Hardware Stores presses that the claims of the creditors should be preferred to those of the preferential share-holders. It appears to me that it cannot really be said that the creditors have been paid in full until their claims for interest on the amounts outstanding have been satisfied. It appears to me only to be fair that they should get some sum by way of interest. This principle, of course, is stronger in the cases of those creditors who have had contracts with the company for the payment of interest on outstanding debts. The point is also covered by authority. I have been referred to the case recorded *Devi Ditto Mal v. Official Liquidator of Amritsar Bank Ltd.* AIR 1921 Lah. 346 which is a Bench decision of the Lahore High Court. It was there decided that the creditors should be given interest on outstanding debts before the preferential share-holders could get anything. This is also the rule in England. I decide, therefore, that the creditors must get interest. The only question which remains is the question of rate of interest. I am not bound to give the creditors the contractual rate but, I think, in most cases where there has been a contract, I should give 6 p. c. provided the contractual interest is equal to or greater than this rate. Where there has been no contract for interest, I think, a rate of 4 p. c. will meet the case. I direct the liquidators accordingly to pay interest at these rates.