

(1886) 11 AHC CK 0005
In the Allahabad High Court

Khushalo

APPELLANT

Vs

Muhammad Husain and Others

RESPONDENT

Date of Decision : 11-11-1886

Acts Referred:

Citation : (1887) ILR (All) 131

Hon'ble Judges : Tyrrell, J;Straight, J;Oldfield, J;John Edge, J;Brodhurst, J

Bench : Full Bench

Final Decision : Disposed Off

Judgement

John Edge, Kt., C.J.—I have always understood the law to be that in those cases in which an action would abate upon the death of the plaintiff before judgment, the action would not abate if final judgment had been obtained before the death of the plaintiff, in which case the benefit of the judgment would go to his legal representative. Whether the deceased plaintiff's representative can enforce the whole of the judgment in this case is a different matter--see Phillips v. Homfray I. L. R. CD 439. When a person desires to be added as such representative upon the death of a plaintiff after judgment, he must satisfy the Court that he is the proper person to be so added.

Straight, J.

2. I concur in the view expressed by the learned Chief Justice, and I am not aware that it is at variance with anything said by me in the case mentioned in the referring order.

Oldfield, J.

3. I concur. I think the answer to this reference should be that the right to sue in this case is not a personal right only, but one which would survive to the legal representative of the plaintiff.

Brodhurst, J.

4. I concur with the learned Chief Justice.

Tyrrell, J.

5. I concur with the learned Chief Justice.

6. [See Chapman v. Day 49 L. T. 436.--REP.]