

(1991) 01 KAR CK 0056

In the Karnataka High Court

Case No : Regular First Appeal No. 142 of 1978

K.P. Puttaram

APPELLANT

Vs

Vijaya Bank Ltd.

RESPONDENT

Date of Decision : 09-01-1991

Acts Referred:

Constitution of India, 1950 — Article 12, 311, 311 (2)
Specific Relief Act, 1963 — Section 14, 41

Citation : (1991) ILR (Kar) 3614 : (1991) 2 KarLJ 280

Hon'ble Judges : N.D.V. Bhat, J;K.A. Swami, J

Bench : Division Bench

Advocate : K. Subba Rao, for the Appellant; S.S. Ramdas, for the Respondent

Final Decision : Allowed

Judgement

K.A. Swami, J.—This Appeal by the plaintiff is preferred against the Judgment and Decree dated 28-2-1978 passed in O.S.No. 125/1973 by the II Additional Civil Judge, Bangalore City. The defendants also have filed cross objections. Thus, the appeal and the cross objections are considered together.

2. The Appeal arises out of a suit filed for a declaration that the order dismissing the plaintiff from service is wrongful and for award of damages in a sum of Rs. 25,000/-. Originally the plaintiff claimed damages in a sum of Rs. 75,000/-. However, he confined the claim for damages to a sum of Rs. 25,000/-. The plaintiff also sought for a further direction to the defendants to pay interest to him on the amount of damages claimed at 6% per annum from the date of suit till the date of decree and further interest at 6% per annum on the aggregate decree amount from the date of decree till realisation and costs of the suit.

3. It is not necessary to advert to the pleadings of the parties as the Judgment of the Court below refers to it in great detail. It is sufficient to mention that the suit was resisted by the Defendants on all the counts. In the plaint the plaintiff has specifically stated that he did not want to press the relief of reinstatement in

view of the provisions of Specific Relief Act. Therefore, he had filed the suit only for damages for wrongful dismissal.

4. The trial Court framed the following issues for determination:

(1) Whether the plaintiff proves that his order of dismissal from service of the defendant Bank is wrongful?

(2) Whether the plaintiff proves that he is entitled to challenge the order of dismissal before this Court?

(3) Whether the plaintiff establishes that he is entitled for a sum of Rs. 25,000/- as damages?

(4) What decree and relief?

It answered issues 1 and 2 in the affirmative. On Issue No. 3 it held that the plaintiff established that he was entitled to damages of only Rs. 1,995/-. Accordingly, the trial Court passed a decree declaring that the dismissal of the plaintiff by the first defendant-Bank was wrongful; that the plaintiff was entitled to damages in a sum of Rs. 1,995/- with future interest at 6% per annum from the date of the suit till realisation and awarded costs to the extent the suit was decreed.

4.1. The plaintiff has come up in appeal being aggrieved by the fact that the damages awarded was not as prayed for by him in the plaint. The 1st defendant has filed the cross-objections because the dismissal has been held to be wrongful.

5. During the course of hearing, the appellant-plaintiff has filed an application under Order VI Rule 17 C.P.C. seeking permission of the Court to amend the plaint so as to include a prayer for reinstatement. He has also sought permission to delete certain portion of the plaint averments and also to add one para. The relevant portion of the said application is as follows:

"That for the reasons sworn to in the accompanying affidavit, the applicant/appellant/plaintiff above named respectfully prays that this Hon''ble Court may be pleased to permit him to amend the plaint/Appeal and the prayer as follows in the interest of justice and equity.

1. Amendment of the cause title:

Vijaya Bank Ltd., as Vijaya Bank (Acquired under the Banking Companies Acquisition and Transfer of Undertakings Act), wholly owned and controlled by the Government of India presently having its Administrative Office at Trinity Circle, M.G. Road, Bangalore.

2. To delete the following portion in paragraph 14 of the plaint:

"The plaintiff does not press the relief of reinstatement in view of the provisions of Specific Relief Act."

3. To add as paragraph 14A to the plaint/appeal:

"The Vijaya Bank Ltd., was Nationalised subsequently in the year 1980 and it is an authority as defined under Article 12 of the Constitution of India. This being a statutory Body the relief of reinstatement could be granted."

4. And to amend the prayer as -

"To direct the defendant Bank to reinstate him with all consequential benefits and or to declare that the applicant continues to be in service and is entitled to all the consequential benefits."

This application is opposed by the first defendant Bank, which has filed objections to the application. As the amendment of the plaint sought for by the plaintiff has to be considered along with the Appeal in order to find out whether the amendment sought for is necessary for the purpose of proper adjudication of the controversies between the parties, we have heard the application seeking amendment along with the appeal. We will consider the prayer for amendment during the course of the Judgment.

6. Having regard to the contentions urged on both the sides, the points that arise for consideration are as follows:-

(1) Whether the order dated 31-3-1970 passed by the first defendant Bank dismissing the plaintiff from the service is wrongful?

(2) If the answer to the first point is in the affirmative, whether the plaintiff is entitled to reinstatement or damages?

(3) If it is held that the plaintiff is entitled to damages, what is the quantum of damages the plaintiff is entitled to?

7. POINT No. 1: The trial Court on re-appreciation of the evidence adduced during the course of the enquiry and on taking into consideration the evidence adduced in the suit, has come to the conclusion that the order dismissing the plaintiff from service is wrongful. It has held that the enquiry was vitiated inasmuch as the evidence available before the Enquiry Officer was not sufficient to arrive at the conclusion that the plaintiff was guilty of gross misconduct alleged against him. It has however rejected the plea of the plaintiff that he did not have sufficient opportunity to defend himself. Thus, the trial Court has mainly based its decision on the ground that the evidence available before the Enquiry Officer was not sufficient to warrant the decision that the plaintiff was guilty of the misconduct.

8. We are not inclined to accept the reasoning of the trial Court, It is not the jurisdiction of a Civil Court to go into the question as for whether the evidence adduced during the course of enquiry is adequate or inadequate to record a finding that the delinquent official is guilty of misconduct. We may also point-out here itself that the case wherein there is no evidence to prove the misconduct stands on a different footing. That would be a case of no evidence and as such

that would not depend upon the adequacy or otherwise of the evidence on record.

9. The jurisdiction of a Civil Court in a matter like this would be to find out the regularity of the proceedings, and whether there is violation of principles of natural justice. It is also open to a Civil Court to go into the question, if it is raised, as to the jurisdiction of the Inquiring Authority and the Disciplinary Authority either to hold a disciplinary proceeding or to impose a penalty. However, it would not be within the purview of a Civil Court to appreciate the evidence adduced before the Inquiring Authority and record its finding that the evidence relied upon by the Inquiring Officer is not adequate.

10. It is contended by Mr. K. Subbarao, learned Counsel for the appellant that this is a case where there is no misconduct defined and the nature of the misconduct alleged against the plaintiff does not fall in any of the categories of misconduct prescribed by the Regulations of the first defendant Bank. It is further contended that there is no regulation covering the conduct alleged against the plaintiff as amounting to misconduct. As such it does not amount to a misconduct. Therefore, no penalty as such could have been imposed. In support of this plea the learned Counsel for the appellant has placed strong reliance on the Decisions of the Supreme Court in:

(1) Glaxo Laboratories (I) Ltd. Vs. Presiding Officer, Labour Court, Meerut and Others,

(2) A.L. Kalra Vs. Project and Equipment Corporation of India Ltd.,

(3) Rasiklal Vaghajibhai Patel Vs. Ahmedabad Municipal Corporation and Another,

(4) Shankar Dass Vs. Union of India (UOI) and Another,

11. On the contrary, it is contended by the learned Counsel for the first defendant/respondent that misconduct has been described under Regulation 3(m) of Chapter VIII of the Vijaya Bank Limited Office Manual governing the services of the plaintiff and the misconduct alleged and proved against the plaintiff falls under that Regulation.

12. We are of the view that this is not a case in which it is possible to hold that no misconduct is prescribed. Misconduct alleged against the plaintiff is that he acted prejudicial to the interest of the Bank. Regulation 3(m) specifically states that "doing any act which is prejudicial to the interest of the Bank. Regulation 1 of Chapter VIII defines disciplinary action". Regulation 2 provides that "misconduct" may be either "gross misconduct" or "minor misconduct". Regulation 3 enumerates the misconducts. Doing any act which is prejudicial to the interest of the Bank is one of the misconducts. Regulation 4 of Chapter VIII provides the punishments for gross misconduct and Regulation 6 thereof provides punishment for minor misconducts. The other Regulations contained in Chapter VIII relate to holding of enquiry, punishment and other related matters. Therefore, this is a case in which the Regulation prescribe misconduct" alleged against the plaintiff. In the Decisions of the Supreme Court relied upon by Mr. K.

Subbarao, learned Counsel for the appellant, rendered in M/s. Glaxo Laboratories, A.L. Kalra, Rasiklal and Shankar Dass cases, as a matter of fact, there was no prescription of misconduct. That being so, it is not possible to apply the ratio of those Decisions to the case on hand in which, as already pointed out, "misconduct" has been prescribed.

13. It is next contended that it is a case in which there was hardly any evidence before the Inquiry Officer to hold that there was a misconduct committed by the plaintiff. As far as this contention is concerned, on a perusal of the enquiry proceedings, it is not possible to accept this contention, because the Inquiry Officer has examined the witnesses before whom the plaintiff stated certain things prejudicial to the interest of the Bank. The witnesses have spoken as to what was uttered by the plaintiff. The Inquiry Officer has accepted the statements. As already pointed out, it is not permissible to a Civil Court to re-appreciate the evidence adduced before the Inquiry Officer and come to its own conclusion as long as the findings recorded by the Disciplinary Authority are based on evidence however scanty it may be. Therefore, it is not possible to hold that in the case on hand, there is no evidence to prove the alleged misconduct. As a matter of fact, as already pointed out, the misconduct has been held proved on the evidence adduced before the Inquiry Officer.

14. However, it is urged that the misconduct alleged against the plaintiff was very minor in nature; whereas the penalty of dismissal imposed upon the plaintiff was disproportionate. In other words, it is contended that even if the misconduct is proved, the penalty imposed must be proportionate to the nature of the misconduct alleged and the Civil Court is competent to go into the question as to whether the penalty imposed is disproportionate. In the event the Civil Court comes to the conclusion that the penalty imposed is disproportionate, it is entitled to hold that the dismissal is wrongful.

15. On the contrary, it is contended by Mr. Ramdas, learned Counsel for the first defendant Bank that it is not for the Civil Court to go into the question as to whether the penalty imposed is excessive.

16. It cannot be denied that the penalty must be proportionate to the misconduct alleged and proved. The Supreme Court in Shankar Dass case cited supra, which arose out of a suit filed, by the dismissed servant for setting aside the order dismissing him from service, went into the question of reasonableness of the penalty and held thus:-

"7. It is to be lamented that despite these observations of the learned Magistrate the Government chose to dismiss the appellant in a huff without applying its mind to the penalty which could appropriately be imposed upon him in so far as his service career was concerned. Clause (a) of the second proviso to Article 311(2) of the Constitution confers on the Government the power to dismiss a person from service "on the ground of conduct which has led to his conviction on a criminal charge". But that power like every other power has to be exercised

fairly, justly and reasonably, Surely, the Constitution does not contemplate that a Government servant who is convicted for parking his scooter in a no-parking area should be dismissed from service. He may perhaps not be entitled to be heard on the question of penalty since Clause (a) of the second proviso to Article 311(2) makes the provisions of that article inapplicable when a penalty is to be imposed on a Government servant on the ground of conduct which has led to his conviction on a criminal charge. But the right to impose penalty carries with it the duty to act justly. Considering the facts of this case, there can be no two opinions that the penalty of dismissal from service imposed upon the appellant is whimsical."

The Supreme Court allowed the appeal and set aside the order of dismissal. Therefore, it is not possible to accept the contention of the learned Counsel for the first respondent Bank that the Civil Court cannot go into the question as to whether the penalty imposed is just, reasonable, and is not disproportionate to the nature of misconduct alleged and proved.

17. In the instant case the misconduct alleged against the plaintiff/appellant was as under (as per Ex.P-1):-

"It has come to the knowledge of the management that on 14th February, 1970, in the course of your talk with two of our esteemed customers, you had imputed partiality and incompetence to the management. It seems that you had further added that without the protection from the Authorities responsible for maintaining law and order in the State, it would not be possible for officials like you to discharge duties in the Branch. The imputation is that the management is incompetent in the matter of maintaining discipline among its officials. In an oblique reference to the orders of transfer of two officers, you had imputed motives to the management.

It is needless to state that as an Officer you should conduct yourself in a manner calculated to enhance the reputation of the Bank. If you had any genuine grievance, you could have given expression to the same with the management. Your conduct referred to above is in direct contravention of Regulation 4 of Chapter III of the Office Manual of the Vijaya Bank Ltd., and such conduct on your part is clearly an act of gross misconduct as the same is prejudicial to the interest of the Bank."

This misconduct has been held proved by the Inquiry Officer. It may be relevant to notice that the appellant/plaintiff was appointed by the first Defendant Bank on 13-9-1966 as an Officer. He joined the service on 4-11-1966. On 12-2-1970, according to the first defendant Bank, the plaintiff during the course of discharge of his duties, appears to have whispered with the customers certain things as stated in Ex.P-1. Plaintiff gave his reply on 4-3-1970. A further notice as per Ex.P-2 was issued to the plaintiff on 13-3-1970. Thereafter the enquiry was held and the order was passed on 31-3-1970 dismissing the plaintiff from the service. We are of the view that the misconduct proved against the plaintiff is not of such

a magnitude so as to warrant dismissal of the plaintiff from service. As the penalty has to be just, reasonable and proportionate to the misconduct, any unreasonable penalty imposed shall have to be declared as wrongful.

18. However, Mr. Ramdas, learned Counsel for the 1st respondent- Bank placed strong reliance on a Decision of this Court in *HINDUSTAN AIRCRAFT LTD. v. G. SHAMBANDHAM*. In that Decision, learned Single Judge of this Court has held that the decision terminating the services of an employee who is guilty of misconduct can be interfered with if it is opposed to principles of natural justice. As the decision taken in the instant case is in conformity with the principles of natural justice and as the Civil Court can go into only the regularity or validity of the proceedings including the question as to whether the penalty imposed is just and appropriate, and no other aspects of the matter, it is not possible to hold that the aforesaid Decision in *Hindustan Aircraft Ltd. v. G. Shambandham* is of any help to the defendant.

19. We have already pointed out that no doubt the Civil Court cannot go into the adequacy of evidence before the Inquiry Officer; but it can go into the question as to whether the penalty imposed is proportionate to the misconduct proved. Therefore, we are of the view that the Decision in *Hindustan Aircraft Ltd. v. G. Shambandham* 1969 (1) Mys.L.J. 83 though does not in clear terms lay down that the Civil Court cannot go into the question as to whether the penalty imposed is disproportionate to the misconduct proved; but by reason of the observations made therein that the Civil Court can go into the regularity or validity of the proceedings before the Inquiry Officer, is likely to lead to an inference that a Civil Court cannot go into the question as to whether the penalty imposed is proportionate to the nature of misconduct proved. Therefore, we consider it necessary to clarify that the Decision in *Hindustan Aircraft Ltd. v. G. Shambandham* cannot be held to have laid down that the Civil Court cannot go into the question as to whether the penalty imposed is disproportionate to the misconduct proved and as such it should not be read as laying down the law that the Civil Court has no jurisdiction to go into the question as to whether the punishment imposed is disproportionate to the misconduct proved.

20. In the light of the Decision of the Supreme Court in *THE KAYASTHA PATHSHALA, ALLAHABAD AND ANR. v. RAJENDRA PRASAD AND ANR.*, and also in view of the established principle of law that penalty or punishment should not be disproportionate to the misconduct proved, we are of the view that the order dismissing the plaintiff from service on the misconduct alleged in Ex.P-1 and proved is unreasonable and it is disproportionate to the misconduct proved. Therefore, we hold that the penalty of dismissal is wrongful. Accordingly, we answer Point No. 1 in the affirmative.

21. POINT NO. 2: The next question for consideration is as to whether the plaintiff is entitled to reinstatement. We have already pointed out that in the plaint itself the plaintiff has stated that having regard to the provisions contained in the Specific Relief Act he does not press the claim for reinstatement and has

confined his relief for damages for wrongful dismissal. It has become necessary to consider this question in the light of the application filed by the plaintiff seeking amendment to the plaint, as otherwise there was no necessity to consider the same. As already pointed out, the plaintiff has filed an application seeking amendment of the plaint during the course of hearing of the appeal. The contention of the plaintiff is that he could not have sought for reinstatement and even if he had sought for the same, it could not have been granted having regard to the provisions contained in Sections 14 and 41 of the Specific Relief Act. It is now contended that the fact that the plaintiff has stated in the plaint that he does not press the claim for reinstatement and has confined his relief only for damages for wrongful dismissal, does not in any way disable or disentitle him from seeking the relief of reinstatement in the light of the altered circumstances. It is the case of the plaintiff that during the pendency of the appeal, the first defendant-Bank has been Nationalised with effect from 15-4-1980 under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, consequently the officers and servants of the Bank have become entitled to claim protection and benefit of Article 311 of the Constitution as the Bank has become "State" as defined in Article 12 of the Constitution and service under the first defendant-Bank is governed by the Statutory Rules and it is no more a matter of contract. Consequently, it is contended that the bar contained in Sections 14 and 41 of the Specific Relief Act has ceased to be operative. Under these circumstances, the plaintiff is entitled to seek the relief of reinstatement.

22. On the contrary, it is contended on behalf of the first defendant-Bank that the rights of the parties are to be determined as per the facts obtaining on the date of suit; that the plaintiff has given up his claim for reinstatement by making a positive statement in the plaint; that in the event the plaintiff is allowed to seek reinstatement, the Bank would be greatly prejudiced because it would be a new case that the plaintiff would be pleading, for which the Bank did not have any opportunity to defend. It is also contended that the Bank is also entitled to plead that the plaintiff is not a person whose services can be availed of keeping in view the safety and interest of the Bank.

23. It is contended that the plaintiff was dismissed from the service as long back as on 31-3-1970. On the date he filed the application seeking amendment, the relief of reinstatement had become barred by time even if it were to be considered that the cause of action for the relief of reinstatement arose on the date the first defendant-Bank came to be Nationalised. In other words, the first defendant Bank was Nationalised on 15-4-1980 whereas the application in question seeking amendment was filed on 3-9-1990 during the course of hearing of the appeal. Thus, according to the Bank the relief of reinstatement is not sought within the period of three years as per the provisions contained in the Limitation Act. Therefore, the plaintiff is not entitled to reinstatement and as such the amendment seeking addition of a prayer for reinstatement should not be granted.

24. We may also mention here itself another contention of Mr. K. Subbarao, learned Counsel for the appellant, that the question of limitation does not arise in a case like this because the reinstatement is not an independent relief, but it is consequential to declaring the order of dismissal as wrongful; therefore the plaintiff is not making any claim afresh for the first time. It is stated that the relief sought by way of amendment arises out of the relief sought in the plaint for a declaration that the order of dismissal is wrongful.

25. We are of the view that in this case it is not necessary to go into the question as to whether the relief of reinstatement sought for by way of amendment is barred by time. There is no doubt that the relief of reinstatement is consequential to the relief of declaration that the order of dismissal is wrongful. What persuades us to refuse reinstatement is the fact that the plaintiff was dismissed from service in the year 1970 and from that date he has been out of touch with the Bank service. It has come on record that the plaintiff after he was dismissed from service, enrolled himself as an Advocate and has been practising as such since May 1972. In a case like this, while considering the question of reinstatement, the interest of the Bank also has to be taken into account. The Supreme Court had an occasion to consider the question as to whether reinstatement has to be ordered in *Kayasta Pathshala's* case cited supra. The facts of the case which persuaded their Lordships of the Supreme Court to decline to grant reinstatement are as follows:

"26. What do we have here? In 1962 the respondent was appointed as a Chemistry lecturer in the scale of Rs. 175-10-215. His performance was found to be unsatisfactory. In August 1964, he was placed under suspension. In January 1966, he was again suspended. Thereafter, he brought suit after suit, appeal after appeal from the lowest Court to the Apex Court. He continued the litigation for about 25 years. On 17 March 1975 the management had appointed Dr. Gopendra Kumar as Chemistry Lecturer and his appointment was approved by the DIGS. On 28 October 1982 the management passed a resolution confirming his appointment w.e.f. 27 September 1975. That was also approved by the DIOS. Dr. Gopendra Kumar was not a party to any one of the earlier litigations nor to the present appeal.

27. The respondent knew very well that his service contract was with the private management. In 1964 itself learned Munsiff while dismissing the first suit No. 422/1963 has held that his contract of employment could not specifically be enforced. He was then obliged to place his services on the market to mitigate the damages. But he did nothing of the kind. In 1968 he joined legal profession and he is still not out of it. He has not disclosed his professional income. In fairness he ought to have disclosed his income to the Court since it is in his personal knowledge. Instead, he seems to have urged before the High Court that the professional income is not relevant for consideration. The High Court while accepting the submission went a step further and observed: "that joining the legal fraternity can never be said to be employment and could not disentitle the

respondent to claim his arrears of salary". Legal profession may not be considered as an employment but the income from profession or avocation if not negligible, cannot be ignored while determining damages or back wages for payment. It must also be taken into consideration. In S.M. Saiyad Vs. Baroda Municipal Corporation Baroda, , the Court gave deduction of even a small income of Rs. 150/- per month earned by the worker turned Advocate while awarding backwages upon reinstatement.

xxx xxx xxx 29. In the light of all these facts and circumstances and the authorities to which we have called attention, it seems to us that it would be sufficient if the respondent is given salary for three years on account of damages."

In the instant case also, the plaintiff since 1st April 1970 has not been in touch with the Bank service. He was an officer in the Bank at the time he was dismissed from service. The working of the Bank differs from the normal administration of any other Department of the Government or other institutions. Nearly 20 years have elapsed from the date of dismissal. Further, he has been practising as an Advocate since 1972. Under these circumstances, in the light of the Decision of the Supreme Court in Kayastha Patashala's case, we are of the view that even under the altered situation, this is not a proper case in which reinstatement should be granted. Such a relief is highly prejudicial to the interest of the Bank.

25.1. We may at this stage notice a Decision of the Supreme Court in Smt. J. Tiwari Vs. Smt. Jwala Devi Vidya Mandir and Others, . This Decision is also referred to in Kayastha Pathshala's case. In Smt. J. Tiwari's case, the Supreme Court has observed thus:

"We would like to add that even if the appellant could be held to be entitled to a declaration that she continued to be in the service of Respondent-1, this is not a proper case in which such a declaration should be granted to her."

26. However, Mr. K. Subba Rao, learned Counsel for the appellant placed reliance on a Decision of the Supreme Court in Shankar Dass Case in which reinstatement was ordered. That was a case wherein the dismissed official was a civil servant engaged in the affairs of the Union of India and therefore he was entitled to the protection and benefit of Article 311 of the Constitution of India. It is not so in the case of the plaintiff, at the time when he was dismissed from service, and also on the date the suit was filed and a decree was passed. Therefore, it is not possible to hold that the ratio of the Decision in Shankar Dass case is applicable to the case on hand. Hence, we are of the view that the plaintiff is not entitled to reinstatement but he is entitled to damages. Point No. 2 is answered accordingly. Consequently the amendment sought for need not be allowed.

27. POINT No. 3: The next question for consideration is as to whether the amount of damages awarded by the Court below is adequate. The trial Court has, on holding that the order of dismissal is wrongful, has awarded damages in a

sum of Rs. 1,995/-, equivalent to 3 months wages. We are of the view that the damages awarded by the trial Court is highly inadequate. In Kayastha Patashala's case on refusing reinstatement damages equivalent to the wages for 3 years were awarded. Therefore, we do not see any reason as to why the same yardstick should not be applied to the case on hand. In a case like this we would have even gone further and award damages equivalent to the wages for more than 3 years, But, the plaintiff himself has confined his claim for damages to a sum of Rs. 25,000/-. The 3 years salary would work out around Rs. 23,940/- as stated by the learned Counsel for the first defendant Bank. Under these circumstances, we consider that the sum of Rs. 25,000/- claimed by the plaintiff as damages should be awarded. We answer Point No. 3 accordingly.

28. The next question is as to what should be the rate of interest. In the case of damages the plaintiff would be entitled to interest both current as well as future on the determination of damages as the determination of damages dates back to the presentation of the plaint. Further, we are also of the view that in a case like this there should not be any difference in the rate of interest - current and future. Plaintiff himself has claimed current and future interest at the rate of 6% per annum. Accordingly, he is entitled to interest at the rate of 6% P.A. from the date of the suit till the date of decree of the trial Court and future interest from the date of decree till realisation at 6% per annum.

29. In the circumstances of the case, we hold that the plaintiff is also entitled to costs throughout.

30. Accordingly, the Appeal is allowed with costs throughout...The cross-objections are rejected. The Judgment and decree of the trial Court are modified. The plaintiff is awarded the damages of Rs. 25,000/- with interest at the rate of 6% per annum from the date of the suit till the date of realisation with costs throughout.