

(1886) 04 AHC CK 0006
In the Allahabad High Court

Ram Sahai and Others

APPELLANT

Vs

The Bank of Bengal

RESPONDENT

Date of Decision : 28-04-1886

Acts Referred:

Citation : (1886) ILR (All) 262

Hon'ble Judges : Tyrrell, J;Brodhurst, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Brodhurst and Tyrell, J.—Apart from authority, which is strong and clear on the general question of restitution, we are satisfied that, in common justice and fairness, the appellants are entitled to the moderate interest they claim on their money, which has now to be refunded to them by the respondent.

2. This consists of a principal sum of Rs. 642, of which Rs. 9 were interest, recovered wrongfully in a former stage of the litigation by the respondent from the appellants as compensation for the respondent's costs. The Court below has not understood the rule laid down in *Forester v. The Secretary of State* ILR Cal. 161. It is of course true that a Court executing a decree for costs cannot award interest on those costs not given by the decree. But the case before us is quite different. The question is not of awarding interest to the successful appellant on the costs given him by the decree under execution, such interest being not awarded on the decree. The question is, whether interest may or not be given on the sum wrongly obtained, as described above, by the respondent from the appellant, restitution of which is now secured by the operation of the final decree in the case. We allow the appellant's claim and decree his appeal with costs.