

(1958) 09 KL CK 0011
In the High Court Of Kerala
Case No : A.S. No. 403 of 1956

State		APPELLANT
	Vs	
Krishna Pillai and Others		RESPONDENT

Date of Decision : 22-09-1958

Acts Referred:

Citation : (1958) KLJ 1134

Hon'ble Judges : K.T. Koshi, C.J.;C.A. Vaidialingam, J

Bench : Division Bench

Advocate : K.N. Narayanan Nair Government Pleader, for the Appellant; M. Madhavan Nair and R. Sankaradasan Thampi, for the Respondent

Judgement

Koshi, C.J.—This appeal by the State only relates to the interest portion of the claim allowed to the plaintiffs on amounts due to them on account of kudivila. It is common ground that the amount of kudivila came to Rs. 3,279 and that it fell due in 1108. The suit was brought only in 1119 and the lower court allowed one-half the principal amount by way of interest for the period prior to institution of the suit. It is this portion of the decree that is challenged in the appeal. Reliance is placed by the appellant-State on the decision of the Privy Council reported in AIR 1938 Privy Council 67 and that of the Travancore High Court following that reported in 1945 T.L.R. 605 that where there is no agreement to pay interest, or where no custom or usage is proved in that behalf or where there is no law expressly providing for payment of interest claimed for interest prior to the date of the suit cannot be sustained. These decisions also hold that interest cannot be allowed as damages for wrongful detention of a debt. It would appear that there were rival claimants for the kudivila claimed in the suit and that that dispute was settled only in 1118 by a decision of the Travancore High Court (Ext. A). The suit was filed in 1119. In the circumstances the interest allowed by the lower court on the admitted amount of Rs. 3,279/- for the period prior to the date of the suit has to be disallowed and we decide accordingly. The decree of the lower court will accordingly stand modified. From the date of the suit the amount of Rs.

3,279/- will bear interest at 4% per annum till the date of the decree and therefrom the aggregate amount and costs will bear interest as above till realisation. The plaintiffs will have proportionate costs in both the courts from the State and the State will bear its costs throughout.

Time for payment 2 months. Order accordingly.