
(1998) 04 CAL CK 0025
In the Calcutta High Court
Case No : Suit No. 7 of 1997

Tata Iron and Steel Co. Ltd.		APPELLANT
	Vs	
Observer (India) Limited		RESPONDENT

Date of Decision : 13-04-1998

Acts Referred:

Citation : (1999) 2 ILR (Cal) 358

Hon'ble Judges : Amitava Lala, J

Bench : Single Bench

Advocate : Hirak Kumar Mitra, for the Appellant;

Judgement

Amitava Lala, J.—This is a suit for damages for defamation, enquiry into damages, perpetual injunction restraining the Defendants and/or

each of them and/or servants and/or agents from further publishing the words set out in paragraph 12 hereof or any similar libel upon the Plaintiff

and/or its management along with other consequential reliefs.

2. The Defendant Nos. 1 to 5 are concerned newspaper company and its officials i.e. printer/publisher, Chairman, Editorial Board a Editor-in-

Chief, Executive Editor, Journalist etc.

3. The Defendant Nos. 6, 7 and 8 are members of parliament and legislative Assembly representing a political party.

4. The Plaintiff company is controlled and managed by the following Executives and the Board of Directors:

Mr. R.N. Tata (Chairman)

Mr. Keshub Mahindra

Mr. N.A. Palkhivala

Mr. Akbar Hydari

Mr. S.A. Savavala

Mr. Mantosh Sondhi

Mr. Nusli N. Wadia

Mr. L.P. Singh

Mr. S.M. Palia

Mr. P.K. Kaul (Financial Institutions" Nominee)

Mr. Suresh Krishna

Mr. G.P. Gupta (Financial Institutions" Nominee)

Dr. Jamshed J. Irani (Managing Director)

Mr. K.C. Mehra (Whole-time Director)

Mr. Ishaat Hussain (Whole-time Director)

5. A copy of the Balance Sheet of the Company,

Page Nos. 361 and 362 is missing

10. The newspaper was circulated in Calcutta, Jamshedpur and various parts of India and abroad. Several enquiries were made by the share

holders and customers and issued letters of enquiry about the news item at the Plaintiffs office with the jurisdiction.

11. The Plaintiff issued notice upon all the Defendants giving opportunity to each of the Defendants to publish apology and withdrawal of aforesaid

defamatory statements from the date of the receipt of the letter but none had responded nor given reply thereto.

12. Ultimately the Plaintiff instituted this suit before this Hon"ble Court and made an interlocutory application before this Hon"ble Court. Ultimately

at the interlocutory stage the concerned personnels of the newspaper on behalf of the Defendant Nos. 1 to 5 have tendered their unconditional

apology by filing a statement in the newspaper as follows:

JO allegations against TISCO on Sukinda Valley baseless: OBP regrets error

New Delhi: On the basis of statements made by Janata Dal leaders (1) Ranendra Pratap Swain, MLA, 2) Dr. Prasanna Kumar Patseni, MLA, 3)

R Bihari Barik, MP, The Observer of Business and Politics (dated October 7, 1996) had carried a news item, published under the heading "Rao,

Patnaik favoured TISCO for chromite mining: Janata Dal Leaders.

13. In the said news item, among other things, it was stated that J.B. Patnaik, former Chief Minister of Orissa and P.V. Narasimha Rao, former

Prime Minister, has received kickbacks to the tune of Rs. 50 crore for turning a blind eye to TIS Co's activity in the Sukinda Valley during the

period 1995-96.

14. The said article also alleged that the entire deal of TISCO regarding the extraction of chromite from Sukinda Valley was a multicrore scam,

from and out of which the Congress Party derived immense benefit during the last general election.

15. It was further alleged in the said article that the source of money spent in Behrampur, the constituency of the former Prime Minister P.V.

Narasimha Rao, could be traced back to the Tatas.

16. It was also in clear terms reiterated in the said article that both J.B. Patnaik and Narasimha Rao worked in tandem to give reprieve and

pecuniary benefit to the Tatas and both acted and behaved like trustees and dormant partners of the Tatas and in return the Tatas lavishly funded

the Congress during the general election of 1996.

17. It was claimed that the matter should be investigated and that it was a fit case for initiating a public interest litigation in the Hon"ble Supreme

Court of India.

18. However, on further inquiry by the Observer of Business and Politics it was realised that there was no evidence at all for the allegations levelled

against the Tatas. All the allegations were found to be baseless.

19. The Observer of Business and Politics regrets having reproduced the above stated unfounded accusations against the House of Tatas.

20. The Observer of Business and Politics apologises to Tata Iron and Steel Co. Ltd. as well as the persons who are incharge of the management

of the said company without any qualification and hesitation for the inconvenience that may have been caused to them in the process.

21. Both the newspaper cuttings exhibited and kept with the record of the Court.

22. Since no Defendants contested, the suit appeared before this Hon"ble Court under the heading "Undefended Suit" and pending for quite

sometime even then nobody attended this Court on behalf of the Defendant.

23. At the initial stage Mr. Hirak Kumar Mitra, learned Senior Counsel appearing for the Plaintiff stated that since the people concerning the newspaper being Defendant No. 1 to 5 have tendered their unconditional apology and fresh publication has been given in the newspaper by stating that the allegations as against TISCO are baseless, they are not inclined to proceed against them claiming any monetary relief save and except the relief on account of perpetual injunction. On the other hand, they are not only claiming the perpetual injunction as against the Defendant Nos. 6, 7 and 8 i.e. political personnels being the instalment, of all baseless allegations but also claiming monetary relief against them to set an example so that in future making reckless statements can be stopped or at least minimised.

24. Although services were made upon the parties but since the monetary relief by way of compensation was sought for in addition to perpetual injunction I have given direction upon the Plaintiff to make substituted service by way of publication of advertisement in the newspapers. It was done accordingly and the Plaintiff filed an affidavit-of-service to that extent which is kept with the record.

25. In spite of such service at no point of time the Defendants being Nos. 6, 7 and 8 appeared before this Court or tendered unconditional apology.

26. The situation is so grave that court cannot shut out its eyes after observing such situation. Members of the Legislative Parties representing the public at large are part of important wing of the democracy. Therefore, as and when such a person making comment as against other he must know his limitation. Mud throwing neither can help the political parties nor can help the Indian democracy. This is one of the reason for which judiciary has been called upon to interfere in every alternative stage. The concerned Defendants are so adamant that in spite of having opportunities they did not think to attend the court for tendering an apology for making such baseless allegations. It seems that they wanted to get escape from the court of law. Under such circumstances, imposition of compensatory benefit to the Plaintiff company in addition to order of injunction is obvious.

27. Irresponsible politicians are-spoiling the respect of each and every political party sometimes some Journalists are also cannot avoid

responsibility on their part. There should be a check and balance. Today people of the country is totally confused due to the behaviour of such

irresponsible politicians and they are greater in numbers but lesser in quality. The country is in danger. Only the responsible politicians, irrespective

of any political ideology can control them so that the judiciary can take a breathe.

28. Mr. Mitra, learned Senior Counsel appearing for the Plaintiff cited a judgment reported in *John v. MGN Limited* 1996(2) All. E.R. 35 to

establish the case of damages. I find therein that the successful Plaintiff in a defamation action is entitled to recover, as a general compensatory

damages, such sum as will compensate him for the wrong he was suffered. A sum must compensate one for the damage to his reputation; vindicate

his good name; and take account of the distress, hurt and humiliation which the defamatory publication has caused. In assessing the appropriate

damages for injury to reputation the most important factor is the gravity of the libel; the more closely it touches the Plaintiff's personal integrity,

professional reputation, honour, courage, loyalty and the core attributes of its personality, more serious it is likely to be. The extent of publication is

also very relevant libel published to millions has a greater potential to cause damage than a libel published to a handful of people. A successful

Plaintiff may properly look to award of damages to vindicate his reputation ; but the significance of this is must greater in a case where the

Defendant asserts the truth of the libel and refuses any retraction or apology than in a case where the Defendant acknowledges the falsity of what

was published and publicly expresses regret that the libellous publication took place. It is well established that compensatory damages may and

should compensate for additional injury caused to the Plaintiff's feelings by the Defendant's conduct of the action, as when he persists in an

unfounded assertion that the publication was true, or refused to apologise, or cross-examine the Plaintiff in a wounding or insulting way.

29. In action of defamation and in any other actions where damages for loss of reputation are involved, the principle of *restitutio in integrum* is

necessarily and even more highly the subjective element. Such actions involved a money award which may put the Plaintiff in a purely financial

sense in much stronger position that he was before the wrong not merely can he recover the estimated sum of his past and future losses, but, in

case the libel driven underground, emerges from its lurking place at some future date, he must be able to point to a sum awarded. The essential

element in assessing damages are entitled to look at the whole conduct of the Defendants or the Defendant in particular from the time the libel was

published down to the time of giving their verdict. The court may consider what his conduct before action, after action and in the court during the

hearing of the suit. This Court finds that there is no change from its very inception till the date of hearing. Therefore this reasoning would weigh

strongly against any attempt to equiparate damages for personal injuries and damages for defamation.

30. Under the aforesaid circumstances, I am satisfied that the Plaintiff is entitled for the following reliefs and is granted accordingly. There will be a

decree in terms of prayer (c) as against the Defendants. There will also be a decree for Rs. 5 lakhs each against each of the Defendant Nos. 6, 7

and 8 for defaming the Plaintiff. The Plaintiff will be at liberty to circulate the order through newspapers. This Court has granted a time to the

Defendant Nos. 6, 7 and 8 for a period of one month from the date of the publication of the order in newspapers to tender unconditional apology

to the Plaintiff through all leading newspapers of the country including the concerned newspaper being Defendant No. 1 to the satisfaction of the

Plaintiff failing therewith the Plaintiff will be entitled to recover the damages awarded by this Court by way of execution. The Plaintiff will be entitled

for a cost for a sum of Rs. 30,000.00 which will be paid by the Defendant Nos. 6, 7 and 8 irrespective of their tendering apology before the

Court. Decree will be drawn up expeditiously.

31. The department and all parties and the concerned newspaper entrusted for any publication of the order passed herein are to act on a signed

copy minute of the operative part of the order.