

Arhat Misir Vs. Baldeo Ahir and ors.

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Court : Allahabad

Decided On : Dec-15-1909

Reported in : 5Ind.Cas.124

Judge : John Stanley, C.J. and ;Banerji, J.

Appellant : Arhat Misir

Respondent : Baldeo Ahir and ors.

Judgement :

1. In the suit out of which this appeal has arisen the plaintiff claimed damages or compensation for injury caused to his reputation and for mental pain arising out of an assault. On the 28th of October 1906 the plaintiff was wantonly attacked by the defendants and beaten. A prosecution in the Criminal Court was instituted and the defendants were found guilty and punis(sic). The present suit was instituted on the 11th of December 1907 and the defence was set up that the claim was barred by Article 22 of Schedule II of Act XV of 1877, and the suit was dismissed as barred by limitation.

2. An appeal has been preferred and it is contended before us that article 22 does not apply to a case when a plaintiff seeks compensation for injury to reputation resulting from an unlawful beating but that either article 120 or article 36 is the article applicable.

3. We are of opinion that the Court below was right in holding that Article 22 applied. That article provides a period of one year's limitation for a claim on grounds other than those previously mentioned, which do not include a case of assault. Insult and contumely resulting to a party from an assault may be a matter such as would justify the giving of exemplary damages in a suit brought for damages for the assault but apart from the assault they do not constitute a separate cause of action. The cause of action is the assault and for the damages resulting from the assault including exemplary damages the claim is made. We think that the Court below rightly dismissed the suit as barred by limitation and we dismiss this appeal with costs including fees in this Court on the higher scale.

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