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(1923) 07 CAL CK 0002

Calcutta High Court

Case No: None

Muller Maclean and Co.	APPELLANT
Vs	
S.M. Ataulla and Co.	RESPONDENT

Date of Decision: July 27, 1923

Citation: (1924) ILR (Cal) 320

Hon'ble Judges: Page, J

Bench: Single Bench

Judgement

Page, J.

In this case the plaintiff Company, which is incorporated in the United States of America, has obtained a decree for the value of eight bills of exchange, the value of six being stated in the dollar currency of the United States, and the value of two in sterling. The question which now falls for determination is whether the decretal amount in rupees is to be calculated in accordance with the rate of exchange prevailing on the respective dates when the bills matured for payment, or, as the plaintiffs contend, with the rate of exchange prevailing at the date when the decree was passed. In the absence of an agreement between the parties to the contrary, I am of opinion that the decretal amount in the case of each bill is to be calculated in accordance with the rate of exchange prevailing on the date when the cause of action arose. In my judgment the same rule is to be applied whether the cause of action is for a debt or for damages, and whether it sounds in contract or in tort. The rule is one consonant with principle and with authority. [See the case of Owners of Steamship Celia v. Owners of Steamship Volturno [1921] 2 A.C. 544, Barry and Ors. v. Van Den Hurk [1920] 2 K.B. 709, Lebeanpin v. Richard Crispin & Co. [1920] 2 K.B. 714, Di Fardinando v. Simon, Smits & Co., Ltd. [1920] 3 K.B. 409, In re British American Continental Bank, Ltd. v. Credit General Liegeois'' Claim [1922] 2 Ch. 589, In re British American Continental Bank, Ltd. v. Goldzieher and Penso''s Claim [1922] 2 Ch. 575, and Dekhari Tea Company, Ltd. v. Assam Bengal Railway Co. Ltd. ILR (1921) Calc. 886, 890]. In the case of Societe des Hotels le Touquet Paris-Plage v. Cummings [1922] K.B. 451, 465, Lord Justice Atkin observed obiter "but no case that

2. I know of has yet decided what the position is when a foreign creditor to whom a debt is due in his country in the currency of his country, comes to sue his debtor in the Courts of this country for the foreign debt. Much may be said for the proposition that the debtor''s obligation is to pay, say francs, and so continues until the debt is merged in the judgment which should give him the English equivalent at that date of those francs." With the greatest respect to the learned Lord Justice I agree with the subsequent judgment of Mr. Justice P.O. Lawrence in In Re British American Continental Bank Ltd. [1922] 2 Ch. 589, and I confess that I do not share the doubts on the subject which Lord Justice Atkin expressed in the above case. The view taken by Mr. Justice Lawrence, in my opinion, is sound in principle, and supported by authority. It has not been, and could not reasonably be, contended that the proper date is the date when the payment is in fact made, while "waiting to convert the currency till the date of judgment only adds the uncertainty of the exchange to the uncertainty of the law''s delays," as Lord Justice Sumner observed in the case of S.S. Celia v. S.S. Volturno [1921] 2 A.C. 544. The plaintiffs further contended that, even if the rule be that which I have enunciated, the parties to this suit have expressly provided in terms appearing on the face of the bills that the currency is to be converted at the rate of exchange prevailing on the date when the decree is passed. The words relied on are "draft to be paid at the current rate for Bank demand draft at date of payment with interest added at 8 per cent. per annum from date to approximate date of returns reaching New York." In the case of Muller Maclean & Co. v. Kaderbhoy (1922) 25 Bom. L.R. 177, the High Court at Bombay held that this provision did not operate to vary the general rule, and that the rate of exchange was to be calculated at the rate prevailing at the date when the bills matured for payment. The judgment of Mr. Justice Marten in that case was affirmed on appeal. I agree both with the decree which was passed by that learned Judge, and with the reasons upon which it was based, and I am content to follow the judgment which Mr. Justice Marten delivered in that case. I desire, however, to add a few observations upon the words "with interest added at 8 per cent. per annum from date to approximate date of returns reaching "New York." I agree with Mr. Justice Marten that the words "from date" mean from the date that the bill was drawn. The coarse of business is that the bill with shipping documents attached, is taken to a Bank, which forthwith discounts the bill, charging interest thereon from the date when the bill is discounted until the date when a sum representing the value of the discounted bill is actually received by the discounting Bank in New York or London, as the case may be. If, therefore, the words "from date" were held to mean "from the due date for payment" which, on the assumption that it would take 3 weeks for the bills to reach Calcutta after leaving New York would be a date 84 days after the date upon which the bills were drawn, the plaintiffs would be unable to recover from the defendants the sum representing the interest which the Bank in New York was charging in respect of the bills which it had discounted. In my opinion, the words "from date" mean "from the date when the bill was drawn," and there will, therefore, be judgment for the plaintiffs for Rs. 33,370-2 with costs on scale No. 2.

Interest at 8 per cent. from date of judgment until realisation.