

(1870) 01 CAL CK 0002

Calcutta High Court

Case No: Special Appeal No. 2292 of 1869

Bhairab Chandra
Chuckerbutty

APPELLANT

Vs

Mahendra Chandra
Chuckerbutty and
Others

RESPONDENT

Date of Decision: Jan. 31, 1870

Judgement

Phear, J.

The plaint complained that the defendant had maliciously, with intent to defame the character of the plaintiff, and to injure his reputation, caused information to be laid before the police, charging the plaintiff, amongst other things, with having caused abortion in the case of a certain woman, who was named; and that the defendant did this without any reasonable cause. With regard to the preliminary objection taken by the respondent, we think the cause of action exhibited in the plaint does not fall within the latter portion of the 3rd clause of section 6, Act XI of 1865. By that clause suits for the recovery of damages on account of an alleged personal injury are excluded from the jurisdiction of the Small Cause Court, unless actual pecuniary damages shall have resulted from the injury.

2. We think that an action for damages on account of defamation of character is an action for damages on account of an alleged personal injury. Defamation of character, in our opinion, is a personal injury; but we do not read the words which follow,--"unless actual pecuniary damage shall have resulted from the injury"--to mean all damage which can be measured by money. No action for damages will lie in a Civil Court, unless the damage complained of is of such a nature that the law will consider it capable of being measured in money; and if, therefore, the words " actual pecuniary damage" in this clause were co-extensive with damage which is capable of being measured in money," then this clause, while pretending in terms to exclude from the jurisdiction of the Small Cause Court some suits for damages on account of alleged personal injury, would really have the effect of including all such suits within that jurisdiction, and would, therefore, be a useless repetition of the body of the section itself. It appears to us that this was not the

intention of the Legislature, and that the words which I have quoted, and which are added to the first part of the clause, must have been added with the intention of separating some particular cases of damages on account of alleged personal injury and distinguishing them from the general class of such cases. In our view the words actual pecuniary damage," as there used, have reference to pecuniary loss to the plaintiff's property or estate. It might well be an immediate consequence of personal injury that the sufferer came to be so many rupees out of pocket, or his estate worth so many rupees less than it otherwise would have been. Nothing of this kind is alleged by the plaintiff to have occurred in this case, and we read the plaint as seeking for the recovery of damages on account of an alleged personal injury solely, without reference to any actual pecuniary loss. We, therefore, think, that the suit was one which could not be entertained in the Small Cause Court, and consequently that a special appeal does lie to this Court.