

(1870) 06 CAL CK 0003

Calcutta High Court

Case No: Applications for Review Nos. 45 and 46 of 1870

Mussamat
Mafizunnissa Bibi and
Another

APPELLANT

Vs

The Collector of
Tippera

RESPONDENT

Date of Decision: June 29, 1870

Judgement

Phear, J.

As my learned colleague intimated a desire to hear further argument from the petitioner, Baboo Anukul has addressed us on the merits of the application for review; and after hearing him upon the merits, I have only to remark that I have nothing further to add to the observations which I have already made. I am of opinion that the present application must be rejected with costs. Having now heard the pleader for the petitioner upon the merits of this application, I am of opinion that this suit was a suit for damages within the meaning of section 6, Act XI of 1865. The lower Appellate Court has distinctly found that the payment was not a voluntary payment; and as the facts on which this finding has been arrived at cannot be disputed, I have no doubt in my mind that this was a suit for damages. The fact that the plaint did not expressly state that the plaintiff was suing for damages does not make any difference.