

(1890) 03 CAL CK 0004

Calcutta High Court

Case No: None

In Re: Act I of 1879; In Re:
Reference from the Board of
Revenue under Section 46 of the
Indian Stamp Act

APPELLANT

Vs

RESPONDENT

Date of Decision: March 30, 1890

Acts Referred:

- Stamp Act, 1899 - Section 15(3), 25

Citation: (1892) ILR (Cal) 499

Hon'ble Judges: W. Comer Petheram, J; Prinsep, J; Pigot, J

Bench: Full Bench

Judgement

W. Comer Petheram, Kt., C.J.

The question referred to us by the Board of Revenue is, what is the stamp which an Entrance Certificate under the rules of the Uncovenanted Service Family Pension Fund should bear. By the contract which is evidenced by the document, the person to whom the certificate is issued in consideration of a money payment secures an income after his death for a time to another person, subject to certain contingencies. This is, I think, a contract of assurance, and the document which evidences such a contract is, I think, a life policy, and is within Section 3 and Sub-Section 15 of the Stamp Act. The amount insured is quite uncertain in every case, and it is impossible to predict whether anything, or if anything what, will ever become payable by the Fund under the contract, and the contract cannot, I think, be defined as an insurance for any particular amount, and therefore cannot be for an amount which exceeds Rs. 1,000. That being so and it being an insurance, it must be a life policy for an amount which does not exceed Rs. 1,000, and the stamp duty on such an instrument is 6 annas.

2. It is, I think, clear that such an instrument as this is not within the scope of Section 25. Sub-section (c) of that section, which is the only one within which it has been said to be included, deals with contracts under which for some executed consideration money becomes immediately due, though payable by fixed periodical payments. And it is, I think, enough to say that that is not the present case, and there is no provision in the Act which can relate to the valuation of annuities secured by life policies.

3. My answer to the question is that the stamp duty which an entrance certificate under the rules of the Uncovenanted Service Family Pension Fund should bear is 6 annas.

Prinsep, J.

4. I agree that, read with the rules of the Uncovenanted Service Family Pension Fund, this paper may be regarded as a life policy, and also that it does not come within Section 25 of the Stamp Act. We have not the means of ascertaining its value. That can be obtained only by such a calculation as is not open to us. In the absence of such information we must take it in the most favourable way to the person being taxed, that is to say, we must assess it at the lowest possible value below Rs. 1,000, and it should therefore be assessed at 6 annas.

Pigot, J.

5. I agree.