

1900.
February 14.

GOONESEKARA v. SENARATNA.

D. C., Matara, 2,206.

Exaggeration of Claim—Judgment recovered in lower class—Unnecessary costs payable to defendant.

A plaintiff who exaggerates his claim and puts the defendant to unnecessary expenses in the way of stamps makes himself liable to repay to the defendant such costs.

ACTION on a bond for Rs. 650, with interest at 24 per cent. per annum, but plaintiff recovered judgment only for Rs. 320 and costs, with interest at 24 per cent.

Defendant appealed on the ground that he should not have been cast in costs in the class in which the action was brought, and that though 24 per cent. was the rate mentioned in the bond, it was agreed that a much lower rate would be charged.

Browne, for appellant.

Wendt, for respondent.

14th February, 1900. BONSER, C.J.—

This is an action on a bond in which the plaintiff claims Rs. 650. He has recovered Rs. 320. The defendant appeals and says that under these circumstances he has been put to unnecessary expense in the way of stamps; that if the claim had been restricted to the amount which the District Judge has found to be due, the stamps on the defendant's process would have been less in value than those which under the circumstances he had been obliged to use. I think that contention is reasonable, and the plaintiff must re-pay the defendant any unnecessary costs to which he has been put by the exaggeration of his claim.

The other ground of appeal was that, although the parties agreed that interest should be paid and the stipulation was inserted in the bond, yet there was an understanding that the stipulation for payment of interest should not be enforced. No such agreement was proved.

BROWNE, A.J.—Agreed.
