Shyam Lal Paharia And Anr. vs Gaya Prasad Gupta 'Rasal' on 10 August, 1970

Equivalent citations: AIR1971ALL192

JUDGMENT

S.N. Katju, J.

1. The suit in appeal was brought by the plaintiffs for injunction, accounting and for delivery of the copies of a rival publication called 'Hisabi Darpan' which had been published in 1954 by the defendant together with its manuscript, plates and blocks that may be found in possession, custody or control of the defendant, his agents and servants.

2. It was alleged that the first plaintiff Shyam Lal Paharia was the author and plaintiff No. 2 Madbai Ram Paharia the publisher of a book 'Hisabi Machine." It was a ready reckoner giving tables of rates. It was published in 1941 and its second edition was brought out in 1944. According to the plaintiffs, it was thought to bring cut a cheaper edition of the book with the title 'Hisabi Darpan', but meanwhile the defendant came to know of the plaintiffs' intention and he published the impugned book 'Hisabi Darpan' in 1954. According to the plaintiffs, the defendant's book was a "colourable imitation and slavish copy of the various charts contained in the plaintiff's book". The price of the impugned book was Rs. 1-8-0 per copy and the plaintiffs alleged that since its publication the sale of their book fell down considerably- They claimed accounts from the defendant of the profits made by him on the sale of the impugned book and the award of such profits to them.

3. The defendant contested the suit and contended that the plaintiffs' books 'Hisabi Machine' and Hisabi Darpan were neither original or literary works but consisted simply mathematical calculations and the plaintiffs could not claim any copyright in their publications. The plaintiffs did not press their contention that the defendant had infringed their copyright in "Hisabi Darpan" but confined their claim to the infringement of the copyright in their publication 'Hisabi machine' by the defendant in his publication 'Hisabi Darpan'.

4. The court below held that (1) in view of the definition of the word literary work' in Section 35 of the Copyright Act of 1911 adopted by the Indian Copyright Act, 1914 the calculation charts could be treated as literary work within the meaning of Section 35 of the Act of 1911;

(2) the plaintiff's copyright had not been infringed by the publication of the defendant's book 'Hisabi Derpan'; and (3) the plaintiffs were not entitled to any damages. On the aforesaid findings the learned District Judge of Jhansi dismissed the suit. Aggrieved from the decree of the learned Judge the plaintiffs have come in appeal before me.

5. The plaintiffs' book is a fairly bulky volume containing 771 pages. It has a stiff card board cover. It gives the price of commodities at rates beginning with one seer per rupee and the tables give the prices at the aforesaid rate for commodities weighing from one chhataks, two chhataks upto a sesr, then two seers and so on upto a maund, then to two maunds, three maunds upto 100 mds. then 200 mds. 300 mds, 400 mds, upto 1000 mds, then 2000 mds, 3000 mds. upto 5000 mds. Similar calculations are carried on for progressively higher rates, viz. Rs. 1-1-0 upto Rs. 25 per seer. The price of the plaintiffs' book is Rs. 5. The Book 'Hisabi Darpan' is a smaller volume containing 106 pages. The calculations for rates start with half a chhatak per rupee and are carried on upto the rates oil 4 seers per rupee. Since the rates in the defendant's book start from half a chh. per rupee the tables as given in the plaintiffs' book are not common with those given in the defendant's book upto page 29. Thereafter the tables tally in successive even pages of the defendant's book and it is admitted that the tables in the aforesaid even pages of the defendant's book tally with the tables for the corresponding rates in the plaintiffs' book. The court below has observed:--

> "The result is that in the first 29 pages of the book 'Hisabi Darpan'. there is found no such calculations which may tally with any calculation contained in the book 'Hisabi Machine'. On the other hand these 29 pages appear to be the result of the defendant's own labour. At page 35 of the book 'Hisabi Darpan' I do not find that the calculations contain-
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> ed therein tally with the calculations contained in the plaintiffs' book 'Hisabi Machine.' But it may be seen that even beyond the page 30 of the book 'Hisabi Darpan', the calculations are not wholly identical. In the book 'Hisabi Machine' the prices have been calculated at the rates of one seer a rupee, then at the rate of one seer four chhataks a rupee, then at the rate of one seer eight chhataks a rupee, then one seer twelve chhatak a rupee and so on. The calculation has thus progressed in the book 'Hisabi Machine' by four chhataks. In the book ' Hisabi Darpan' this rate of calculation has progressed beyond one seer by 1/2 chhatak. The result is that even beyond page 29, there are good number of pages in the book 'Hisabi Darpan' which carry calculation not to be found in the book 'Hisabi Machine'. To be more precise the calculations contained in the book 'Hisabi Darpan' upto page 29 do not tally with any calculations in the book 'Hisabi Machine'. Beyond that, calculations contained on even number pages tally with the calculations contained in the plaintiffs' book 'Hisabi Machine', while calculations contained at odd number pages do not, tally with the calculations contained in the book 'Hisabi Machine'. The result is that out of 126 pages only 49 pages of the book 'Hisabi Darpan' carry calculations which tally with some calculations contained in the book 'Hisabi Machine'.

6. The first point for consideration is whether there has been any infringement of the plaintiffs' copyright in the impugned book 'Hisabi Darpan' brought out by the defendant. Both the books of the parties contain tables calculating the price of commodities for different weights at given rates upto Rs. 20/- per seer. The tables which have been complied in the two books contain mathematical calculations. No one could be said to have a copyright in multiplying figures because the process of multiplication is well known and it is open to any one to arrive at such calculations. No one,

therefore, could have a monopoly in the art of multiplication. It has, therefore, to be seen whether the book published by the plaintiffs could be said to have any copyright which could be infringed by another person.

7. The suit was filed in 1954 when the Indian Copyright Act, 1914 was in force. The relevant provisions of the aforesaid Act are as follows:--

> Section 2. In this act, unless there is anything repugnant in the subject or context. -
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> (1) "the Copyright Act" means the Act of Parliament entitled the Copyright Act, 1911; and (2) words and expressions denned in the Copyright Act have the same meanings as in that Act.

Section 7. If any person knowingly-

(a) makes for sale or hire any infringing copy of a work in which copyright subsists; or

(b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work; or

(c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(d) by way of trade exhibits in public any infringing copy of any such work; or

(e) imports for sale or hire into British India any infringing copy of any such work;

he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

Section 35 of the Imperial Copyright Act is as follows:

> Section 35(1) In this Act, unless the context otherwise requires:--
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> "Literary work" includes maps, charts, plans, tables and compilation. "Collective work" means-
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> (a) .....
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> (b) .....
>
> (c) .....

"Infringing" when applied to a copy of a work in which copyright subsists means any copy, including any colourable imitation made, or imported in contravention of the provisions of this Act;

It was not disputed that the provisions of the Imperial Copyright Act applied in the present case. The book 'Hisabi Machine' published by the plaintiffs contain charts. It has however to be seen whether it is a 'literary work'. The expression Literary cannot be construed to mean only such works which deal with any particular aspect of literature in prose or poetry. The expression "literary work" as used in the Imperial Copyright Act merely indicates a work which is literature, i.e. anything in writing which could be said to come within the ambit of literary work. Section 35 (1) also mentions dramatic work or artistic work, work of sculpture and architectural work of art. These are expressions which indicate particular types of work but, as the Sub-section itself says, maps, charts, plans, tables and compilation fall within the meaning of literary work. A map or a chart is not a piece of literature in the ordinary sense of the term but it comes within the expression 'literary work'. It is something which has been set out in print or in writing and is thus a reading matter. It appears to be well settled that even, where the source of information used in a book is something common and is such which is, available to all, even then a compilation: which has been brought out as a result of labour and industry put by a person, then in such a case he can claim a copy right in the publication brought out by him. The names of many drugs are common but if a person tabulates them in a particular order and mentions them along with the names of their manufacturers and has diligently worked in collecting such information, then in such a case he can have a copyright in the publication brought out by him. In short, the principle is that no one is permitted to profit from the labours of another person by merely copying his work. Where, however the source of information is common and another person to whom also the common source is available applies his mind to the subject and the results of his labours are published then even if the results of his work may be similar to the results of another person pursuing the same inquiry it cannot be said that there has been any infringement of copyright.

8. In the case before me, it is open to any person to bring out a ready reckoner by applying the principles of mathematical calculations. If a person compiles a chart, then naturally the result of his labours would be similar to the result of another person pursuing the same set of calculations. In such a case it will be a question of fact whether the impugned work is merely a copy of an earlier publication or it is the result of the labours of another person who has also worked on bis own.

9. In Collis v. Cater. (1898) 78 LT 613. a chemist and druggist carrying on business in a provincial town prepared a catalogue of articles, medicines and drugs sold by him. He put them under various headings and Sub-headings and gave an alphabetical list, fifteen pages long of such articles with their prices mentioning them under separate headings. A limited Company carrying on several businesses in the same town added a drug and dispensing department to its business and brought out a catalogue copying the headings and lists from the above mentioned chemist's catalogue,

omitting two preparations only. It was observed by North, J.:--

> "For the purpose of making such 4 catalogue one man sets to work in a proper manner. He incurs a good deal of trouble. He does what must take a good deal of time in preparing a full catalogue such as either of these work I have before me ..... In one way or another a man engaged in preparing a catalogue of this sort has incurred labour in its preparation, or it may be expense and trouble in its preparation and has done it for the advantage of having his own catalogue. ..... But what has been done in this case is to leave the neighbour who was the first to prepare a catalogue to bear all the expense and trouble of doing it. and to set to work without trouble or expense to take a copy of that catalogue and have one printed from it. The man who acts thus is simply using his neighbour's expense and labour for his own advantage. He is what is called pirating his neighbour's book .....The question is whether a man has a right to appropriate to himself without payment or recognition in any way what it has cost his neighbour expense and trouble to make out. In my opinion he has not ....."

In Weatherby and Sons v. International House Agency, (1910) 2 Ch D 297 the plaintiffs published a "General stud Book", a fresh volume of which appeared every four years, giving lists of all the thoroughbred brood mares at the stud in Great Britain. The defendants compiled a book which contained, without the plaintiffs' permission, practically the whole of the list of brood mares published in Volume 21 of the Stud Book. Parker, J. observed as follows:--

> "The task of a person proposing to prepare such a book would consist, first, in discovering and preparing a list of the various horses and mares whose family numbers would be most certain to be required by the persons for whom the book was intended, and secondly, in finding the family numbers of the horses and mares in this list. The latter part of the task would be comparatively easy, but the former would involve, if there were no recently published volume of the Stud Book, exhaustive inquiries from the 1400 or 1500 breeding establishments in this country, for obviously the list would have to include all mares now or recently at the stud, with their sires. A person who had already made a list of mares now or recently at the stud, and their sires, would have performed more than half of the task involved in the preparation of such a book as the defendants'. By utilising the Stud Book lists the defendants have, in fact, saved themselves the labour and expense which would have been involved in preparing such lists by means of researches of their own, and, if they were entitled to do this, it follows that the editors of the Stud Book, had they desired to publish the Brucee-Lowe numbers of the mares and stallions appearing in Vol. 21, would, in spite of the labour and cost of preparing up-to-date lists of such mares and stallions, be in no better position to do so than any other of His Majesty's subjects.
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> ..... but it is equally certain that, if the list be the subject of copyright at all, no one is entitled in compiling a like list to save himself the trouble of original work by copying an already existing list, the copyright of which belongs to another. I do not

> think that the list of mares in the twenty-first volume of the Stud Book, with their sires, or the list of stallions with daughters at the Stud contained in the same volume, are in fact mere useless lists of names in which there can be no copyright."

In H. Blacklock and Co. Ltd. v. C. Arthur Pearson Ltd., (1950) 2 Ch D 376 the plaintiffs were the proprietors of a monthly publication known as Bradshaw's Guide which was a compilation of the current time tables of the various railways in the United Kingdom, it gave an alphabetical Index to all the stations, many thousands in number, that were mentioned with reference to the pages where the names could be found. The defendants for the purpose of a prize competition arranged in connection with their journal. Pearson Weekly, prepared a list of the Railway Stations in the United Kingdom. It was partially made up from other sources and was completed by copying from the index to the current number of Bradshaw's Guide. Joyce, J. observed;--

> "Under the present Copyright Act, copyright subsists in every original "literary work" which term includes compilations; so that I suppose the list of names which forms or is contained in the index to Bradshaw is entitled to copyright as much as any other part of the publication."
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> "……But at all events it appears to me that the defendants took a substantial portion of the list of names contained in the index to the plaintiffs' publication, thus without any exertion of their own getting the benefit of the labour and expense expended in compiling the list which formed the index to Bradshaw."
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> "……The result is, as I have said, that I think the defendants have infringed the plaintiffs' copyright."

In British Broadcasting Co. v. Wireless League Gazette Publishing Co.. (1926) 1 Ch D 433 the plaintiffs were publishing a weekly bulletin called the "Radio Times" every Friday in which the advance daily programmes for the next week were published. It gave the day and hour of each performance, the artist's name, the heading for items or group of items. The defendants selected and copied numerous items from the set of advance programmes published by the plaintiffs. Astbury, J. referred with approval to the observations made in (1898) 78 LT 613 (supra), 1950-2 Ch D 376 (supra) and 1910-2 Ch 297 (supra) and held that there was copyright in the compilation of the advance programmes. He expressed his approval with the following observations of Parker, J.

> "……It is no doubt true that where, as is often the case, it is a difficult matter to determine whether in preparing one publication an unfair use has been made of another, the nature of the two publications and the likelihood or unlikelihood of their entering into competition with each other is not only a relevant but may be even the determining factor of the case. But, in my opinion an unfair use may be made of one book in the preparation of another, even if there is no likelihood of competition between the former and the latter. After all copyright is property, and an action to restrain the infringement of a right of property will lie even if no damage be shown."

Astbury, J. further observed:

> "In the present case the plaintiffs' compilation was a publication involving considerable time, skill, labour and expense, and a publication of matter solely within their knowledge. The defendants say that their publication will not compete with the plaintiffs' Kadio Times. I dare say it will not compete seriously. But that is no reason why the defendants should appropriate any part of the plaintiffs' work by copying it."

In Macmillan and Co. v. K. and J.

Cooper, AIR 1924 PC 75 an abridgement of an author's work which in fact was not an abridgement but was a collection of detached passages from the author's work joined together was held not to be an abridgement of the original work of the author but merely a selection of scripts taken from the author's work printed in the form of a narrative. The Judicial Committee observed:--

> "..... it is the produce of the labour, skill and capital of one man which must not be appropriated by another, not the elements, the raw material if one may use the expression, upon which the labour and skill and capital of the first have been expended. To secure copyright for this product it is necessary that the labour, skill and capital expended should be sufficient to impart to the product some quality or character which the raw material did not possess, and which differentiates the product from the raw material."

The judicial Committee quoted with approval the following observations of Mr. Justice Story in the case of Frederick Imerson v. Chas Davis (Story's United States Reports Vol. 3 page 768):

> "Some of the points decided are stated in the head note to be first, that any new and original plan arrangement or compilation of material will entitle the author to copyright therein whether the materials themselves be old or new. Second, that whosoever by his own skill, labour and judgment writes a new work may have a copyright therein, unless it be directly copied or evasively imitated from another's work. Third, that to constitute piracy of a copyright it must be shown that the original has been either substantially copied or to be so imitated as to be a mere evasion of the copyright."

While dealing with the meaning of the expression 'original literary work', it quoted with approval the following observations of Mr. Justice Peterson in University of London Press Ltd v. University Tutorial Press Ltd. (1916-2 Ch. D. 601):

> '"The word 'original' does not in this connection mean that the work must be the expression of original or inventive thought. Copyright Acts are not concerned with the origin of ideas, but with the expression of thought; and in the case of 'literary work' with the expression of thought in print or writing- The originality which is required relates to the expression of the thought; but the Act does not require that the

> expression must be in an original or novel form, but that the work must not be copied from another work -- that it should originate from the author."
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> It was further observed by the Judicial Committee that "the precise amount of knowledge, labour, judgment or literary skill or taste which the author of any book or other compilation must bestow upon its composition in order to acquire copyright in it within the meaning of Copyright Act, 1911 cannot be defined in precise terms. In every case it must depend largely on the special facts of that case and must in each case be very much a question of degree."

10. In G. A. Gramp & Sons Ltd. v. Frank Smythson Ltd., (1944 A. C. 329) both the parties were publishers of pocket diaries. The question for consideration was whether the appellants in inserting certain tables in their diary of 1942 had infringed any copyright that the respondents had in a collection of tables included in their pocket diary known as 'Litublue'. Seven of the tables in the appellants' diary had been copied from the respondents' diary. The question was whether having regard to its nature and subject the compilation to be found in the respondents' diary which had thus been copied and made use by the appellants could be regarded as the subject matter of copyright. It was observed that "Under Section 1 (1) of the Copyright Act of 1911 copyright subsists in "every original literary work" and this expression includes compilation. The existence of sufficient originality is a question of fact and degree."

It was held that the impugned compilation fell short of "displaying the qualities requisite to attract copyright."

11. In Omar Ali v. Jnan Ranjan Mitra, (1936) 163 Ind Cas 576 (Cal) the plaintiff alleged that the defendant had in publishing a book named 'Bhugal Sopan' committed piracy of the general plan, arrangement, style and contents of his book entitled Prathmic Bhuparichaya." The Division Bench adopted the following principle laid down in Mohini Mohan Singh v. Sitanath Basak, 34 Cal WN 540 = (AIR 1931 Cal 233).

> "If the defendant, who undoubtedly is at liberty to draw upon common sources of information, saved himself the trouble and labour requisite for collecting that information by adopting the plaintiff's work with colourable variation, he has been guilty of infringement of plaintiffs copyright even though the plaintiff's work is based on materials which are common property." It, was held that under the circumstances of the case it could not be said that the defendant in using the impugned passages had "brought himself within the mischief of any of these principles which the plaintiff may legitimately invoke in support of his case."

12. In AIR 1931 Cal 233 the plaintiff was the author of a book entitled "Adarshalipi-o-Saral-Barna-

Parichaya which was first published in 1902 and had run into several editions. In 1919, the defendant published two books in which, according to the allegations of the plaintiff, his copyright in the afore said book had been infringed by the defendant. It was observed that the question

whether a colourable imitation had been made of the work of another must necessarily be a question of fact.

A mere similarity was not enough as it may be due to chance, both works having been taken from a common source. It was further observed:

> "Though similarity is to a large extent inevitable and each one of the points of similarity may not be worth anything, a conglomeration of so many points of similarity which, in the opinion of the defendant's own expert, constitutes a strange coincidence, points to the defendants having copied from the plaintiff's book."

In Lallubhai v. Laxmishankar, AIR 1945 Bom 51 the plaintiff claimed copyright in a picture drawn and coloured by him of a deity. He alleged that his copyright in the said picture had been infringed by a picture made by defendant No. 1. It was observed that ".....the plaintiff's 1938 picture is no slavish copy of the idol.....

but is rather the plaintiffs' conception of an idea inspired by having seen the idol.....

.....In all cases of this nature, there is no better way of detecting the piracy in an alleged infringing work than by making a careful examination of it to see whether any of the deviations and mistakes which artistic licence permits in the original have been reproduced into the alleged infringing copy." It was held that the plaintiff's copyright in the aforesaid picture had been infringed.

13. In V. Govindan v. Gopalakrishna, AIR 1955 Mad 391 the plaintiff had published an English-Tamil dictionary which had been compiled by one K. The defendant had subsequently published another English-Tamil dictionary. The plaintiff sued the defendant alleging that the copyright in his work had been infringed by the defendant. It was observed that "Regarding ..... plea of "common source", it is well known that a person relying on it must show that he went to the common source from which he borrowed employing his skill, labour and brains and that he did not merely do the work of the copyist, by copying away from a work" (of another person) ".....a man is not allowed to appropriate for himself the arrangement, sequence, order, idiom etc. employed by another, using his brains, skill and labours. ..... In modern complex society provisions have to be made for protecting every man's copyright, whether big or small whether involving a high degree of originality, as in a new poem or picture, or only originality at the vanishing point as in a law report."

14. In S. K. Dutt v. Law Book Co, AIR 1954 All 570 the plaintiff had alleged that that the copyright in his work "Indian Partnership Act, by Mukerji and Dutt" had been infringed by the second defendant in his publication entitled "Law Book Company's Commentaries of law and Practice of Partnership and Private Companies in India". It was observed that in order to construe infringement of a man's copyright there must be sufficient infringement of the work. "Fair Dealing by any one has been kept out of the mischief of the Copyright Act". It was further observed:--

> "Several persons may originate similar works in the same general form without anyone infringing the law in regard to copyright. The infringement comes in only when it can be shown that someone has, instead of utilising the available sources to originate his works, appropriated the labours of another by resorting to a slavish copy of mere colourable imitation thereof. The 'animus furandi', that is, an intention to take from another for purposes of saving labour, is one of the important ingredients to be found against a defendant before he can, in a suit under the Copyright Act, be damnified."

Some of the rules of law that emerge from the principles enunciated in the aforesaid cases may be briefly summarised.

(1) A compilation which may be derived from a common source falls within the ambit of literary work.

(2) A work of compilation of a nature similar to that of another will not by itself constitute an infringement of the copyright of another person's work written on the same pattern.

(3) The question whether an impugned work is a colourable imitation of another person's work is always a question of fact and has to be determined from the circumstances in each case.

(4) The determining factor in finding whether another person's copyright has been infringed is to see whether the impugned work is a slavish imitation and copy of another person's work or it bears the impress of the author's own labours and exertions. The aforesaid principles are by no means exhaustive. There can be no doubt that the plaintiff's book 'Hisabi Machine' is the result of his labour and industry. There is no copyright in any multiplication but the manner in which the tables have been arranged and the rates have been worked out impresses the plaintiff's book with originality and thus confers copyright on his work. The defendant's book which is also a collection of tables proceeds on lines similar to that of the plaintiff. But the shape and the size of the two books are not similar and the rates taken into calculation in the two books are not fully identical. As mentioned above, the plaintiff's book starts from calculating the value of an article at the rate of one chhatak per rupee and then goes on to give the calculations at higher rates and for larger quantities. The defendant's book starts from giving the calculations from half a chhatak and upto page 29 the calculations in the two books are dissimilar and are not common. There is, therefore, no question of infringement of any copyright by the defendant upto page 29 of his book. Thereafter on successive even pages the tables in the two books are similar and identical. It has to be seen whether the defendant in giving such identical tables has infringed the plaintiffs copyright. The defendant while following the arrangement set 'out in the tables as given in the impugned book had to come to figures which necessarily have to be similar in both the books. He could himself have worked out the prices at the given rates and would have come to the same figures as those given in the plaintiff's book. The plaintiff had to prove further that in giving the tables which are similar to the tables in his own book the defendant has appropriated the fruits of the plaintiff's labours and had not worked out the calculations himself. In short, the plaintiff could establish infringement by saying that the defendant's tables which are similar to the tables given in his book are mere copies and slavish

imitation of the plaintiff's work.

15. It is admitted that the defendant has a copy of the plaintiff's book 'Hisabi machine'. In fact the first edition of the plaintiff's book Hisabi machine had been published by the plaintiff himself. Further, a copy of the book was found with the defendant when the Commissioner had gone to seize copies of the impugned book. The mere fact, however, that the defendant had the plaintiff's book with him will not by itself lead to an irresistible inference that he had copied the calculations from the plaintiff's work. There is, however, another feature in the two books which leads to a fair conclusion that the defendant had copied the tables as given by the plaintiff in his book in 49 pages of the impugned book. There are certain mistakes in the figures given in the impugned book which are also common in the plaintiff's book. Four such mistakes were pointed out but the defendant admitted that there were three mistakes on pages 40, 66 and 80 of the impugned book and the same mistakes are to be found in the plaintiff's book. There are several thousand calculations in both the books and it will be a strange coincidence that the defendant when calculating himself would commit the same mistakes with regard to the same figures as those made by the plaintiff in his book. Furthermore, in over 80 calculations there are mistakes in omitting one pie in each figure and the same mistakes are to be found with regard to similar calculations in the plaintiff's book. It was alleged by the defendant that according to a common practice followed by him and the plaintiff, both he and the plaintiff did not mention one pie in the figures calculated by them. This is obviously wrong because in the tables in the impugned book one pie is mentioned at several places in the tables. Under these circumstances it must be held that the defendant had copied out the calculations from the plaintiff's work 'Hisabi Machine' in 49 pages of his new book and, therefore, he roust be deemed to have infringed the copyright with regard to such calculations. The court below was in error in holding that the defendant had not made any infringement of the plaintiff's copyright. The finding of the court below that the plaintiff's copyright has not been infringed by the publication of the defendant's 'Hisabi Darpan' is not wholly correct. The defendant has infringed the plaintiff's copyright to the extent of 49 pages in his book. I, therefore, hold that the calculation in 49 pages of the impugned book tally with the calculations in the plaintiff's book 'Hisabi machine' and to that extent the defendant has infringed the plaintiffs' copyright of his book 'Hisabi Machine'. The impugned book of the defendant had been seized and it was not sold in the market. Furthermore, in view of the change over to the decimal system the plaintiff's book as also the impugned book have lost much of their utility. Under the circumstances of the case I award Rs. 50/- only as damages to the plaintiff.

16. The appeal, is thus partly allowed and the plaintiff's suit is partly decreed for Rs. 50/- only as damages. The plaintiff appellants is awarded Rs. 150/- as costs in this Court and in the Court below.