

## (ASSIZE COURT OF FAMAGUSTA.)

[TYSER, C.J., BERTRAM, J., MACASKIE, P.D.C., VASSIFF EFFENDI  
AND MAKRIDES, JJ.]

REX

v.

KYRIAKO CONSTANTI FRANKOU.

ASSIZE  
COURT  
OF  
FAMA-  
GUSTA  
1909

March 17

CRIMINAL LAW—OFFENCES AGAINST THE PERSON—COMPENSATION—OTTOMAN  
PENAL CODE, ARTS. 177-180—SHERI SCALE OF COMPENSATION—COURTS  
OF JUSTICE ORDER IN COUNCIL, 1882, ART. 159.

In awarding compensation in criminal cases in respect of injuries to the person the Courts proceed not under the Penal Code, but under Art. 159 of the Courts of Justice Order in Council, 1882.

In such cases they are not bound by the scale of compensation prescribed by the Sheri law but proceed according to their own principles.

The prisoner was convicted of wounding a man with intent to kill him, and was sentenced to fifteen years imprisonment.

The wounded man applied for an order for compensation.

*Bucknill, K.A.*, for the Crown.

*Michaelides* for the Defence: This Court is not competent to make the order asked for. The only competent Court to make such an order under the Penal Code is a Sheri Court. Art. 180 expressly refers to the three preceding sections, and the system to which these sections refer is that of the scale of compensation prescribed by the Sheri law, and administered in Turkey solely by the Sheri Courts.\*

*Judgment.* THE CHIEF JUSTICE: The enactment under which we proceed in these cases is not the article of the Penal Code itself, but Art. 159 of the Courts of Justice Order in Council, 1882.

That article authorises us to award compensation in any case in which damages could be recovered in an action.

It is plain from Art. 180, that in the Sheri Court, if nowhere else, an action for damages would lie in this case.

In awarding the damages under Art. 159 we are of course not bound by the Sheri scale, but are guided by our own principles.

*Compensation awarded.*

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\* In Turkey such cases are remitted to the Sheri Court after judgment, for the assessment of the compensation. Cf. a case reported in *Annales Judiciaires*, 1881, p. 229, where a man was accused of wounding another and so causing the loss of an eye. "La Cour, après délibération rend un arrêt de culpabilité, et sur le réquisitoire du substitut du procureur général, condamne l'inculpé à trois ans de travaux forcés et à une indemnité en faveur de la partie civile à liquider par le tribunal des Chéri en conformité de l'art. 177 du Code Pénal."