
(1923) 04 AHC CK 0073
In the Allahabad High Court
Case No : Civ. Rev. No. 32 of 1923

East Indian Railway Company

APPELLANT

Vs

Firm Gope Krishna Kashi Prasad

RESPONDENT

Date of Decision : 19-04-1923

Acts Referred:

Citation : (1923) 04 AHC CK 0073

Final Decision : Dismissed

Judgement

Daniels, J.—This is a revision directed against an order of the Small Cause Court and raises a question of the liability of the Railway Company under risk note B. The goods in question were consigned from Tarighat near Ghazipore on the E.I. Ry. to Manbhum on 26th January 1922. The goods were not lost nor were they destroyed but the Railway Coy. took five months to convey them and they did not reach their destination until 25th June 1922. The delay was unquestionably unreasonable. The trial Court finds that owing to this delay damage was suffered by the plaintiff quite independently of any deterioration of the goods. The ghee was in fact sent with a view to a marriage which had already taken place before the consignment was received. The risk note B under which the goods were despatched protected the Railway Coy. from any claim for damages due to the loss, destruction or deterioration of the goods or for damage to the consignment except in certain specified cases. On the finding of fact of the Court below the cause of action in this case was not due to any of the special events against which the Railway is protected by the risk note. It was therefore outside the protection afforded by the note and the cases in *Ham Kishun Ram v. N.W. Ry. Co.* 1923 All. 122-20 A.L.J. 973, and *Secretary of State v. Jiwan* 1923 All. 426-45 All. 380-21 A.L.J. 220-71 I C. 609, are distinguishable. The case is somewhat similar to *E.I. Rly. Co. v. Kishin Lal* 1924 All. 7-45 All. 530-21 A.L.J. 438-73 I.C. 986 recently decided by me. On the finding of fact of the Court below the revision cannot succeed and I accordingly dismiss it with costs.

2. A ground that the damages were wrongly assessed was taken in the grounds

of revision but was not argued and I cannot therefore take notice of it.