

(1926) 06 PAT CK 0021
In the Patna High Court

East Indian Railway Company, Ltd.

APPELLANT

Vs

Kedarnath Seth

RESPONDENT

Date of Decision : 29-06-1926

Acts Referred:

Railways Act, 1989 — Section 80

Citation : 100 Ind. Cas. 889

Hon'ble Judges : Kulwant Sahay, J;Adami, J

Bench : Division Bench

Judgement

Adami, J.—[His Lordship stated the facts and proceeded:]

2. The goods were consigned under contract with the Great Indian Peninsula Railway Company. There is no finding or allegation that the bale was in fact lost in course of transit on the East Indian Railway or that the non-delivery was by the East Indian Railway Company. The contract being with the Great Indian Peninsula Railway Company and the complaint being that the goods had not been delivered, the East Indian Railway Company alone could not be made liable or perhaps be made liable at all. Section 80 of the Indian Railways Act makes this quite clear. The suit as framed by the plaintiffs should have been brought against the Great Indian Peninsula Railway Company and it was as against the Great Indian Peninsula Railway Company that the appeal should have been filed. It is unnecessary to enter into the question as to the liability of the Railway Companies for the loss or non-delivery or even the question of wilful neglect in this case. The decree of the lower Appellate Court against the present respondents, the East Indian Railway Company, must plainly be set aside, because the East Indian Railway Company could not be made liable alone for the non-delivery of the goods. Section

3. This appeal is allowed, the decree of the lower Appellate Court set aside, and the suit dismissed with costs throughout.

Kulwant Sahay, J.

4. I agree.