

(1923) 04 AHC CK 0053
In the Allahabad High Court

Gopi Krishna and Kashi Prasad	Vs	APPELLANT
East India Railway Company		RESPONDENT

Date of Decision : 10-04-1923

Acts Referred:

Citation : (1923) ILR (All) 534

Hon'ble Judges : Daniels, J

Bench : Single Bench

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 Ghazipur on the East Indian Railway to Manbhum, on the 26th of January, 1922. The goods were not lost nor were they destroyed, but the railway company took five months to convey them and they did not reach their destination until the 25th of 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 company 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 of Ram Kishun Ram v. North-Western Railway (1920) 20 A.L.J. 973 and Secretary of State v. Jiwan ILR (1923) All. 380 are distinguishable. The case is somewhat similar to Civil Revision 23 of 1923 recently decided by me Vide Supra p. 530. 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 revisions but was not argued, and I cannot, therefore, take notice of it.