

(1936) 02 CAL CK 0012
In the Calcutta High Court

Khagendra Nath Chatterjee

APPELLANT

Vs

Kanti Bhushan Banerjee

RESPONDENT

Date of Decision : 03-02-1936

Acts Referred:

Citation : AIR 1936 Cal 808

Hon'ble Judges : R.C. Mitter, J

Bench : Division Bench

Judgement

R.C. Mitter, J.—This Rule has been obtained by defendant 2 in a suit instituted against him by the plaintiff opposite party for recovery of the balance of wages said to be due to him for the period of his service which he said, began on 14th May 1931 and terminated on 15th September 1931. The learned Small Cause Court Judge has found, overruling the defence, on the, point, that the service terminated on 15th September 1931. The lower Court has also found that the plaintiff was employed under defendant 2 as a bus driver on daily wages. The suit was instituted on 12th September 1934 and a plea of limitation was taken but has been over-ruled. The question is whether the decision of the Court below on the point of limitation is a correct decision on point of law. Defendant 2 contends before me that Article 7, Lim. Act applies to this case, and inasmuch as the suit has been instituted more than a year after the termination of service, it is barred by limitation. The whole question is whether a bus driver is an artisan within the meaning of that Article. I do not agree in the contention that a bus driver is a household servant. In my judgment, a bus or motor-car driver is an artisan. He must know something of the mechanism of a car, must know how to start it, to stop it and to start it. He is supposed to attend to the car in emergent cases when the mechanism goes a somewhat out of order during a journey. In this view of the matter I hold that he is an artisan within the meaning of Article 7. This point was considered by the Burma High Court in *Sewaram v. Lachminarayan* 1927 Rang 279 and I agree with that portion of the judgment of Maung Ba, J., where Article 7 has been applied on the footing that a motorcar driver is an artisan.

2. In this view of the matter I do hold that the point of limitation has been erroneously decided by the lower appellate Court and the plaintiff's suit ought to have been dismissed on the ground of limitation. The Rule is accordingly made absolute and the decree passed by the Court below is discharged. The petitioner must have the costs of the Court below from the opposite party. There will be no order for costs of this Court.