
(1911) 08 MAD CK 0039
In the Madras High Court

M. Seshachellam Chetty

APPELLANT

Vs

Traffic Manager His Highness The Nizam's Guaranteed State
Railway Company Limited

RESPONDENT

Date of Decision : 17-08-1911

Acts Referred:

Citation : (1913) ILR (Mad) 65

Hon'ble Judges : Sundara Ayyar, J

Bench : Single Bench

Judgement

Sundara Ayyar, J.—This is a suit against the Nizam's Guaranteed State Railway Company claiming damages for non-delivery of goods entrusted by the plaintiff to the defendant for delivery at Kondapalli. The suit has been dismissed by the lower Court on the ground that the defendant Company had not proper notice of the claim, and the only question I have to decide in the case is whether this finding is correct.

2. Notice was given by the plaintiff within the period required by Section 77 of Act IX of 1890 to the Traffic Manager. Section 140 of the Act requires that any notice required to be served on the Railway Administration may be served on the Agent of the Railway Company; no other person is designated for the purpose by the Act. The plaintiff adduced no evidence to show that any other person was authorised to receive notice on behalf of the Company. It has been laid down in a series of cases that the proper person on whom notice should be served is the Agent. See *Woods v. Meher Ali Bepari* (1908) 13 C.W.N. 24; *G.I.P. Railway Company v. Dewasi* I.L.R., (1907) Bom., 534; *Great Indian Peninsula Railway Company v. Chandra Bai* (1906) I.L.R.. 28 All., 552; *Nadiar Chand Shaha v. Wood* I.L.R., (1908) Calc., 194. No doubt it may be shown by evidence that some other officer of the Company had authority to receive the notice either by showing that he was the person who, according to the practice of the Company, dealt with the claims of the particular character in question or that there were rules framed by the Railway Company authorising him to receive the notice, or in some other

legal manner. The plaintiff has not adduced any evidence in this case to prove that the Traffic Manager to whom the notice was sent was authorised to receive it. The only evidence to which the learned Counsel for the petitioner has drawn my attention is the statement of the Traffic Manager that the plaintiff's claim was barred. It is impossible for me to hold that this is sufficient to hold that the plaintiff was entitled to serve the notice on him. I am constrained to dismiss this petition.