
(1908) 07 CAL CK 0031
In the Calcutta High Court

V. Woods, Agent to the Assam Bengal Ry. Co.

APPELLANT

Vs

Meher Ali

RESPONDENT

Date of Decision : 31-07-1908

Acts Referred:

Railways Act, 1890 — Section 140, 77

Citation : 3 Ind. Cas. 479

Hon'ble Judges : Sharf-ud-din, J;Holmwood, J

Bench : Division Bench

Judgement

1. This was a rule calling on the opposite party to show cause why the judgment and decree of the Small Cause Court of Feni should not be set aside on the ground that the learned Judge of that Court appears to have erred in law in holding that the present suit could be maintained without the provisions of Sections 77 and 140 of the Act having been complied with, and on the ground that the suit by the plaintiff was otherwise not maintainable.

2. It is now too late and we have no desire to differ from a long course of decisions in which it has been held that in a case of Railway Company the notice u/s 77 which is served u/s 140 must be on the Agent of the Company. But we think that a notice on an individual, be he the Agent of a Railway Company, or be he the Secretary of State, need not be physically thrust in the Agent's hands. It is sufficient if the findings of fact are such that it must be inferred that the Agent had full knowledge and notice of the claim. Now in this case there are two very strong reasons for inducing us to believe that the Agent and his office are saddled with full knowledge. The first is that the Traffic Manager whose duty it would have been to bring to the notice of the Agent if there was any hitch in the matter, on the 30th May, long within the period of six months, wrote to the plaintiff that the matter was being enquired into and allaying the plaintiff's natural anxiety about his loss. If the Agent did not know anything about this, and if the Traffic Manager knew that the Agent knew nothing about it, the only possible conclusion would be that the Traffic Manager was an exceedingly

dishonest man. Be that as it may, there is a further finding by the learned Munsif at the end of his judgment which seems to us to conclude the matter. He says, there were Rules of the Company put before him, and he says, in these rules the Agent and the Traffic Manager contract with the public. It is clear that the Traffic Manager in the claims department settles all such claims and the Agent also refers to him claims for disposal. That being so, we think, that there is no doubt that in this case on the findings of fact the Small Cause Court Judge was justified in decreeing the plaintiff's claim. In any case in the exercise of our powers u/s 25 of the Small Cause Courts Act, we certainly are not disposed to pass any order in respect to this case which would have the effect of defeating the plaintiff's apparently just claim.

3. For these reasons the rule will be discharged with costs, one gold mohur.