

PETITIONER:
LAKSHMI BANGLE STORES

Vs.

RESPONDENT:
UNION OF INDIA AND ORS.

DATE OF JUDGMENT 06/12/1990

BENCH:
KULDIP SINGH (J)
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KULDIP SINGH (J)
RAMASWAMY, K.

CITATION:
1990 SCR Supl. (3) 457 1991 SCC (1) 448
JT 1990 (4) 614 1990 SCALE (2) 1187

ACT:

Indian Railways Act: Sections 77-B--Suit for damages for loss of goods--Limitation--Starting point of--Whether consignee entitled to change value of consigned goods.

HEADNOTE:

The appellant had booked a Rail-wagon for consignment of bangles from Ferozabad to Srikakulam on June 3, 1964. He declared the value of the consigned goods as Rs.25,000. The wagon loaded with the glass bangles met with an accident on June 22, 1964 and was damaged. An open assessment delivery of the goods was made to the appellant on September 4, 1964 at the destination. The appellant found that more than half of the bangles were damaged.

The appellant claimed damages of Rs.32869.87 on the ground that the actual value of the bangles was Rs.56,837.04. The respondents contested the claim inter alia on the ground that the appellant could not claim damages by enhancing the value of goods. It was also contended that the suit having been filed beyond the period of 3 years from the date of accident, when loss to the property occurred, the same was barred by limitation under article 10 of the Limitation Act.

The Trial Court held that counting the period of limitation from September 4, 1964, when the extent of loss to the goods was known, the suit was within limitation. The Court however dismissed the suit holding that the respondent was estopped from contending that the value of goods was more than the declared amount of Rs.25,000.

The High Court, in appeal, reversed the findings of the Trial Court on the point of limitation as also on valuation. The High Court came to the conclusion that the appellant was entitled to claim the value of the consigned goods as Rs.56,837.04 and the declaration regarding value at the time of booking the consignment was of no consequence. The High Court however dismissed the appeal on the ground that the suit was barred by limitation.

On behalf of the appellant it was contended before this Court that

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the counting-point for the limitation purposes has to be September 4, 1964. On the other hand, it was contended by

the respondents that the appellant could not be permitted to go back from the valuation of the goods which he declared at the time of booking the consignment.

Dismissing the appeal, this Court,

HELD: (1) The High Court was not justified in relieving the railway administration of its burden to establish that the damage to the goods occurred beyond three years from the date of the suit. [460G]

Union of India v. Amar Singh, [1960] 2 S.C.R. 75 and Jetmull Bhojraj v. Darjeeling Himalyan Railway Company Limited, [1963] 2 S.C.R. 832, referred to.

(2) The knowledge of the accident 'may have given rise to an assumption that the goods were damaged in the accident but the burden of proving that the damage occurred 3 years beyond the date of suit has to be discharged by the railways. There is no material on the record to show that the respondents have done so. The High Court was not justified in relieving the railway administration of its burden. The finding of the High Court on this issue is, therefore, set aside. [462B-C]

(3) The appellant should not be permitted to change the value of the consigned goods at his convenience and to his advantage. The bills produced by the appellant before the Trial Court to substantiate the value of the goods must be in existence at the time of booking the consignment. There is no explanation whatsoever as to why he declared Rs.25,000 as the value of goods at the time of booking against his claim of Rs.56,837.04 at the trial. There is no equity in the stand of the appellant. The rule of fairplay in 'action' demands that the appellant be pinned-down to the valuation of the consigned goods declared by him voluntarily. [463E-G] Chuni Lal v. Governor General, A.I.R. 1949 Mad 754, approved.

JUDGMENT: