

Firm Laxmi Dutt Roopchand

Vs

Union of India and Another

Civil Appeal No. 1884 of 1971

(CJI A. N.Ray, H. R. Khanna, P. K. Goswami JJ)

21.01.1975

JUDGMENT

RAY, C.J. –

1. This appeal by special leave turns on the question as to whether the appellant can claim damages against the Union in respect of a consignment delivered for carriage by the Railway Administration.
2. The respondent Jhanak Lal on January 11, 1956 consigned 35 bags of brass for carriage by railway from Sindi Railway Station to Mirzapur. The railway receipt was consigned to self. The Railway Police on January 15, 1956 seized the goods at Sindi Railway Station.
3. Jhanak Lal was prosecuted in respect of the goods for an offence under Section 379/411, Indian Penal Code. He was acquitted on June 27, 1957. The Magistrate mentioned in the judgment that the brass which had been seized be returned to Jhanak Lal. It may be stated here that the Criminal Court made the aforesaid order because Jhanak Lal being the consignor and consignee was prima facie entitled to possession.
4. Jhanak Lal received the goods back from the police in whose custody they were.
5. The appellant in a letter dated July 26, 1956 asked the Railways to pay Rs. 7,098 as the price for non-delivery of 35 bags of brass. The Railway Administration informed the appellant on January 16, 1957 that the consignment had been seized by the Railway Police in a theft case. The appellant was asked to approach the Court for release of the consignment. The appellant did not take any steps in the Criminal Court. It is to be noticed that the appellant never claimed to be the indorsee of the railway receipt.
6. The appellant brought a suit on August 27, 1958 against the Union and Jhanak Lal. The appellant claimed to be indorsee of the railway receipt. The Courts found that there was no negligence on the part of the Railway Administration in respect of carriage of goods.
7. The appellant obtained a decree against Jhanak Lal. The decree represents the value of the goods. The Railway Administration committed no breach of duty in respect of carriage. The appellant obtained a remedy against Jhanak Lal, who obtained the goods.
8. The appeal is dismissed. Parties will pay and bear their own costs.

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