

The CARRIERS ACT, 1865

ACT NO.3 OF 1865

[AS ON 1956]

Preamble.-

WHEREAS it is expedient not only to enable common carriers to limit their liability for loss of or damage to property delivered to them to be carried but also to declare their liability for loss of or damage to such property occasioned by the negligence or criminal acts of themselves, their servants or agents; It is enacted as follows:-

Comment : The object of the Act was not only to limit the liability of the carriers, but also to declare the liability if the carriers any contract of bargain which seeks to defeat the liability of the carriers as enacted by law would defeat the provisions of the Act. *M/s. M.G. Brothers Lorry Service v. M/s. Prasad Textiles AIR 1984 SUPREME COURT 15*

1.Short title.- This Act may be cited as the Carriers Act, 1865.

2.Interpretation-clause.- In this Act, unless there be something repugnant in the subject or context-

Common carrier.- "common carrier" denotes a person, other than the Government, engaged in the business of transporting for hire property from place to place, by land or inland navigation, for all persons indiscriminately:

Person.- {Cf.definition in s.3 (42) of the General Clauses Act, 1897 (10 of 1897)} "person" includes any association for body of persons, whether incorporated or not.

{The paragraph relating to "number" was rep.by Act 10 of 1914.}

3.Carriers not to be liable for loss of certain goods above one hundred rupees in value unless delivered as such.- No common carrier shall be liable for the loss of or damage to property delivered to him to be carried exceeding in value one hundred rupees and of the description contained in the Schedule to this Act, unless the person delivering such property to be carried, or some person duly authorized in that behalf, shall have expressly declared to such carrier or his agent the value and description thereof.

4.For carrying such property payment may be required at rates fixed by carrier.- Every such carrier may require payment for the risk undertaken in carrying property exceeding in value one hundred rupees and of the description aforesaid, at such rate of charge as he may fix:
Proviso.- Provided that, to entitle such carrier to payment at a rate higher than his ordinary rate of charge, he shall have caused to be exhibited in the place where he carries on the business of receiving property to be carried, notice of the higher rate of charge required, printed or written in English and in the vernacular language of the country wherein he carries on such business.

5.The person entitled to recover in respect of property lost or damaged may also recover money paid for its carriage.- In case of the loss or damage to property exceeding in value one hundred rupees and of the description aforesaid, delivered to such carrier to be carried, when the value and description thereof shall have been declared and payment shall have been required in manner provided for by this Act, the person entitled to recover in respect of such loss or damage shall also be entitled to recover any money actually paid to such carrier in consideration of such risk as aforesaid.

6.In respect of what property liability of carrier not limited or affected by public notice.Carriers, with certain exceptions, may limit liability by special contract.- The liability of any common carrier for the loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any public notice; but any such carrier, not being the owner of a railroad or tramroad constructed under the provisions of {See now the Land-Acquisition Act, 1894 (1 of

1894), s.2} Act 22 of 1863 (to provide for taking land for works of public utility to be constructed by private persons or Companies and for regulating the construction and use of works on land so taken) may, by special contract, signed by the owner of such property so delivered as last aforesaid or by some person duly authorized in that behalf by such owner, limit his liability in respect of the same.

{S.7 (so far as it relates to railways) has been rep.by the Indian Railways Act, 1890 (9 of 1890) s.72.} 7.Liability of owner of railroad or tramroad constructed under Act 22 of 1863, not limited by special contract.In what case owner of railroad or tramroad answerable for loss or damage.- The liability of the owner of any railroad or tramroad constructed under the provisions of the said {See now the Land-Acquisition Act, 1894 (1 of 1894), s.2} Act 22 of 1863, for loss of or damage to any property delivered to him to be carried, not being of the description contained in the Schedule to this Act, shall not be deemed to be limited or affected by any special contract; but the owner of such railroad or tramroad shall be liable for the loss of or damage to property delivered to him to be carried only when such loss or damage shall have been caused by negligence or a criminal act on his part or on that of his agents or servants.

8.Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent.- Notwithstanding anything hereinbefore contained, every common carrier shall be liable to the owner for loss of or damage to any property delivered to such carrier to be carried where such loss or damage shall have arisen from the {The words "negligence or" were rep.by Act 13 of 1921, s 2} criminal act of the carrier or any of his agents or servants {Ins., ibid} [and shall also be liable to the owner for loss or damage to any such property other than property to which the provisions of section 3 apply and in respect of which the declaration required by that section has not been made, where such loss or damage has arisen from the negligence of the carrier or any of his agents or servants].

9.Plaintiffs, in suits for loss, damage, or non-delivery, not required to prove negligence or criminal act.- In any suit brought against a common carrier for the loss, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiff to prove that such loss, damage or non-delivery was owing to the negligence or criminal act of the carrier, his servants or agents.

{Ins by Act 10 of 1899, s.2.The original section 10 had been rep.by Act 9 of 1890.}[10.Notice of loss or injury to be given within six months.- No suit shall be instituted against a common carrier for the loss of, or injury to, goods entrusted to him for carriage, unless notice in writing of the loss or injury has been given to him before the institution of the suit and within six months of the time when the loss or injury first came to the knowledge of the plaintiff.]

{Ins.by Act 13 of 1921, s.3} 11.State Government to add to the Schedule.- The State Government may, by notification in the Official Gazette, add to the list of articles contained in the Schedule to this Act, and the Schedule shall, on the issue of any such notification, be deemed to have been amended accordingly.]

SCHEDULE

Gold and silver coin.

Gold and silver in a manufactured or unmanufactured state.

Precious stones and pearls.

Jewellery.

Time-pieces of any description.

Trinkets.

Bills and hundis.

Currency notes of the Central Government, or notes of any Banks, or securities for payment of money, English or Foreign.

Stamps and stamped paper.

Maps, prints, and works of art.

Writings.

Title-deeds.

Gold or silver plate or plated articles.

Glass.

China.

Silk in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials.

Shawls and lace.

Cloths and tissues embroidered with the precious metals or of which such metals form part.

Articles of ivory, ebony or sandal wood.

{Ins.by Notification No.5299, dated 14th October, 1922, see Gazette of India, 1922, Pt.I, p.1235}

[Art pottery and all articles made of marble.

Furs.

Government securities.

Opium.

Coral.

Musk, Itr, Sandal wood oil, and other essential oils used in the preparation of itr or other perfumes.

Musical and scientific instruments.

Feathers.

Narcotic preparations of hemp.

Crude India-rubber.

Jade, Jade-stone and amber.

Gooroochand or Gooroochandani.

Cinematograph films and apparatus.

Zahir Mohra Khatai.]

{Added by Notification No.68-C(2), dated 3rd March, 1928, see Gazette of India, 1928, Pt.I, p.329} [Platinum.

Iridium.

Palladium.

Radium and its preparations.

Tantalum.

Osmium.

Ruthenium.

Rhodium.]

{Added by Notification No.68-C(4), dated 28th June, 1930, see ibid., 1930, Pt.I, p.672}

[Agarwood.]