

The Carriers Act, 1865

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- THE SCHEDULE

An Act relating to the rights and liabilities of Common Carriers.

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:

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” 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” includes any association or body of persons, whether incorporated or not.

Comments

Indian Airlines Corporation is a common carrier as opposed to a private carrier, but it is not a “common carrier within the meaning of the Carriers Act. (AIR 1961 Cal 383).

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 authorised 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

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 cases of the loss or damages 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 any money actually paid to such carrier in consideration of such risk as aforesaid .

Comments

Person who is not the owner of goods is not entitled to sue common carrier for breach of latter's duty for loss or damage of goods. (AIR 1984 Cal 230).

6. In respect of what property liability of carrier not limited or affected by public notice. Carriers, with certain exception, 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 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 authorised in that behalf by such owner, limit his liability in respect of the same.

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 Act 22 of 1863, 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 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.

8. Common carrier liable for loss or damage caused by neglect or fraud of himself or his agent. — Notwithstanding anything hereinafter 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 of or damage shall have arisen from the criminal act of the carrier or any of his agents or servants and shall also be liable to the owner for loss or damage to any of 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.

Comments

Term in consignment note exonerating carrier from liability for negligence on his part or on part of his servants is invalid since it is opposed to provisions. (AIR 1989 NOC 126).

9. Plaintiffs, in suit 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.

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.

Comments

It is absolutely obligatory on the part of the plaintiff in a suit for compensation for loss of goods to give a prior notice as required under Section 10 of the Carriers Act, even in the event of non-delivery of goods. (AIR 1988 Bom. 269)

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.

THE 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 Bank, 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.

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

Articles of ivory, ebony or sandal-wood.

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 or hemp.

Crude India-rubber.

Jade, Jade-stone and amber.

Gooroochand or Gooroochandani.

Cinematograph films and apparatus.

Zahir Mohra Khatai.

Platinum.

Iridium.

Palladium.

Radium and its preparations.

Tantalum.

Ruthenium.

Rhodium.

Agarwood.