

The Carriers Act, 1865.

THE CARRIERS ACT, 1865

[ACT NO. III OF 1865]

[14th February, 1865] An Act relating to the rights and liabilities of Common Carriers

Preamble. WHEREAS it is expedient not only to enable common carriers to their liability for loss of the 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.” “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.

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

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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 agents the value and description thereof.⁹

4. For carrying such property payment may be required at rates fixed by carrier. Proviso. Every such carrier may require payment for the risk Aldertaken in carrying property exceeding in value one hundred rupees and of the descripiion aforesaid, at such rate of charge as he may fix:

Provided that, to entitle such carrier to payment at a rate higher than his ordinary rate of charge, he shall have caus~d.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 pad 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 'Act XXII 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 F¹oresaid or by some person duly authorized 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 XXII 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 XXII 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 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 [4 x x] criminal act of the carrier or any of his agents or servants 5[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.]

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Sufficient compliance with the provisions of section 10. It was further held that where a carrier goes out of normal route, taking longer voyage, and delivers goods after a long unexplained delay and loss is proved to have occurred while goods were in carrier's custody, the carrier would be liable under section 8 of the Act.⁶

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 losses, damage or non-delivery of goods entrusted to him for carriage, it shall not be necessary for the plaintiffs 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.]

[11. Power to Provincial Government to add to the Schedule. The 1[Provincial Government] may, by notification in the 2[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.]

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SCHEDULE

[See Section 3]

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 3[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.

4[Art pottery and all articles made of marble.

Furs.

Government securities.

Opium.

Coral.

Musk, Jtr, Sandal-wood oil, and other essential oils used in the preparation of fir 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.]