(1875) 06 AHC CK 0001

Allahabad High Court

Case No: None

Ganga Dai		APPELLANT
	Vs	
Lyell		RESPONDENT

Date of Decision: June 1, 1875

Citation: (1875) ILR (All) 60

Hon'ble Judges: Robert Stuart, C.J; Turner, J; Spankie, J; Pearson, J; Oldfield, J

Bench: Full Bench

Final Decision: Dismissed

Judgement

Turner, Spankie and Oldfield, JJ.

There is, it must be admitted, no direct evidence to show the immediate cause of the explosion. Two out of three gentlemen examined as experts deposed that the powder could not have exploded spontaneously; the third, while admitting that in his experience he had never known the compound explode without friction or percussion, deposed that, assuming it proved that prior to the explosion the box had not suffered violence of any sort, he should attribute the explosion to "chemical action having arisen between the ingredients constituting the detonating powder." This answer is not elucidated by any further explanation. The coolie who had brought the box to the station deposed that it had not fallen or received a shock from the time he received it up to the time be placed it inside the counter, and that "no one kicked at the box, for nobody went that way," by which we understand him to mean that no one entered the passage in or near winch ho had placed the box. This answer does not exclude the possibility that the clerk while writing the receipt may have struck the box with his foot. The coolie was standing outside the counter at a distance of a yard from it. It does not appear that from the place in which he stood he could see the box. Another witness, Ganpat Rai, who spoke to the deceased just before the explosion, stated the counter was so constructed that a person outside could not see what was placed inside it. If the coolie could have seen the box from the place at which he stood, it is not likely that he would have kept his eyes on it, and if a blow was given to the box, the explosion which would have immediately followed it would

have rendered the sound of the blow inaudible. Even then if the compound be capable of spontaneous explosion, the evidence would fail to satisfy us that in the present instance it had so occurred.

2. We regard this point, however, as immaterial. That the appellant had reason to believe the compound was explosive is shown by the conversation which took place between him and Mr. Pollard, and it was incumbent on him, both on the general principles of law, and by the special provisions of the Railway Companies Act, XVIII of 1854, to give notice of its contents to the company"s servants. Had such notice been given, looking to the evidence of the station-master, it is possible the box would never have been received for despatch, and it is in the highest degree improbable that, had the deceased received notice of the dangerous nature of its contents, ho would have permitted it to be placed in immediate contiguity to him. The case appears to fall within the principle of Farrant v. Barnes 31 L.J.C.P. 137 : 11 C.B. N.S. 553 : 8 Jur. N.S. 868 cited in the Court of First Instance. Lynch v. Nurdin 4. P. & D. 672 : 1 Q.B. 29 : 5 Jur. 797 establishes the principle that a person may be liable for the consequences of an accident resulting from his own negligence in combination with other causes which he did not contemplate. In that case the defendant left his cart and horse unattended in the street; the plaintiff, a child seven years old, got upon the cart in play; another child incautiously led the horse on, and the plaintiff was there by thrown down and hurt; it was held the defendant was liable to make compensation for the injury sustained by the plaintiff.

3. Furthermore, assuming that the explosion was spontaneous, it could not have occurred had the appellant followed the practice he had hitherto pursued of sending the ingredients of the powder in separate bottles. With a knowledge of the highly explosive character of the preparation, he omitted a precaution which his own practice proves he considered reasonable to preclude the risk of accident.

4. The sum awarded to the respondent appears to us by no means incommensurate with the pecuniary injury sustained by her. We would, therefore, affirm the decree and dismiss the appeal with costs.