

**(1917) 04 CAL CK 0004**

**Calcutta High Court**

**Case No:** None

Baidya Nath Bose

APPELLANT

Vs

Emperor

RESPONDENT

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**Date of Decision:** April 30, 1917

**Acts Referred:**

- Motor Vehicles Act, 1914 - Section 11

**Citation:** 42 Ind. Cas. 601

**Hon'ble Judges:** Teunon, J; Richardson, J

**Bench:** Division Bench

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### **Judgement**

1. In this case the petitioner has been convicted under Part II, rule 3, read with rule 19 of the rules framed by the Governor-in-Council u/s 11 of the Indian Motor Vehicles Act, VIII of 1914, for the purpose of regulating the use of motor vehicles in Calcutta.

2. The petitioner is the owner of Taxi cab No. B. E. 1, and it has been found that on the night of the 14th September last the licensed driver placed by the petitioner in charge of his car drove so negligently as to overturn the car into a roadside drain and cause injury to the passengers.

3. It is not disputed that the driver has thereby contravened rule 19, and the question is whether, by virtue of rule 3, the owner against whom, on the disappearance of the driver, proceedings have been taken, is liable for the acts and conduct of his servant.

4. Rule 3, in so far as applicable to the present case, runs as follows.

No person shall...permit to be used any motor vehicle...which is so driven or used as to contravene any of these rules.

5. The contention of the petitioner is that this rule makes an owner liable only when he abets the driver in the commission of his offence.

6. On the other hand, the Crown contends that the effect of the rule is that when, as in this case, an owner has permitted or authorised the use of his car, he is liable for any contravention of the rules committed by his licensee or servant during the period of such user.

7. The language of the rule cannot be said to be very happy, and speaking for myself I think the construction is not free from doubt.

8. But it appears that the question is concluded by authority. In the case of Edward Thornton, v. Emperor 9 Ind. Cas. 480: 38 C. 415: 15 C. W. N. 390: 13 C. L. J. 335: 12 Cri. L.J. 89, a Bench of this Court placed upon a rule, couched in identical terms, the construction for which the Crown now contends.

9. No doubt that rule was framed under the provisions of Bengal Act VII of 1903 which has since been repealed and replaced by Act VIII of 1914, but there is nothing in the amending Act to suggest that the Court should now place a different construction upon the rule in question.

10. On the authority of the case cited this Rule is discharged.