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with the land under section 81 or by abandoning the land in consideration of the payment of a sum under section 78, was not rightly decided. The result of that is that, in our judgment, this appeal must be dismissed with costs, *i.e.*, the costs of the Trustees and also of the Collector, both as regards the Appeal and as regards the Reference to the Full Bench.

WOODROFFE AND CHITTY JJ. concurred.

Appeal dismissed.

Attorney for plaintiff, appellant: *Ramesh Chandra Basu.*

Attorneys for the defendants, respondents (Trustees): *Morgan & Co.*

Attorney for the added defendant, respondent: *C. H. Kesteven.*

CRIMINAL REVISION.

Before Teunon and Richardson JJ.

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April 30.

BAIDYA NATH BOSE

v.

EMPEROR*

Motor Vehicle—Motor Vehicles Act (VIII of 1914)—Rules framed thereunder by Governor-in-Council—Rules 3 and 19—Liability of owner of taxi-cab for rash and negligent driving by his servant.

The owner of a motor vehicle is liable, under Part II, rule 3, of the Rules framed by the Governor-in-Council under s. 11 of the Indian Motor Vehicles Act (VIII of 1914), for breach of rule 19 by his licensed driver.

Where the driver of a taxi-cab negligently drove the same into a drain causing injury to the passengers in the car:

Held, that the owner of the taxi-cab was liable to prosecution and punishment, under s. 16 of the Act read with the aforesaid rules 3 and 19, for the act of his driver.

Thornton v. *Emperor* (1) followed.

* Criminal Revision No. 320 of 1917, against the order of K. B. Das Gupta, 4th Presidency Magistrate, Calcutta, dated Jan. 15, 1917.

(1) (1911) I. L. R. 38 Calc. 415.

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THE petitioner was the owner of taxi-cab No. BE 1, which used to be driven by licensed drivers in his employment. On 14th September, 1916, at about 2-20 A.M., the driver in charge of the car named Rafiuddi, while proceeding along Karryah Road, drove into a drain injuring the passengers he was carrying. On the 25th instant, the Deputy Commissioner of Police required the petitioner to state the name and license number of the driver, and the former complied with the request the next day. It appeared that the driver had since then absconded. Proceedings were at first taken against him and warrants issued, but no trace of his whereabouts having been obtained, a summons was taken out against the petitioner as the owner of the car on 9th January, 1917, under Part II, rule 3, read with rule 19 of the Rules, framed under s. 11 of the Act by the Governor-in-Council. See *Notification No. 4095P., dated 1st April, 1915*, published in the *Calcutta Gazette, 14th April, 1915, Part I, p. 677.*

Rule 3 is as follows:

No person shall drive or have charge of, or cause or permit to be used, any motor vehicle or trailer which does not in all respects conform to these rules or which is so driven or used as to contravene any of these rules.

Rule 19 runs as follows:—

No motor vehicle shall be driven recklessly or negligently, or at any speed or in any manner which is likely to endanger human life or to cause hurt or injury to any person or animal or damage to any goods carried in any vehicle or by any person, or which would be otherwise than reasonable and proper with due regard to all the circumstances of the case, including the nature, condition and use of the street or public place and the amount of traffic which is actually on it at the time or which may reasonably be expected to be on it.

The petitioner was tried and convicted by the Fourth Presidency Magistrate, on the 15th January, 1917, and sentenced, under s. 16 of the Act and rule 3, read with rule 19 as aforesaid, to a fine. He then

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moved the High Court and obtained the present Rule.

Babu Santimoy Majumdar, for the petitioner.

Cur. adv. vult.

TEUNON J. 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 under section 11 of the Indian Motor Vehicles Act (VIII of 1914), for the purpose of regulating the use of motor vehicles in Calcutta.

The petitioner is the owner of taxi-cab No. BE 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.

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 the conduct of his servants.

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".

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.

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 authorized 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.

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.

But it appears that the question is concluded by authority. In the case of *Thornton* v. *Emperor* (1), a Bench of this Court placed upon a rule couched in identical terms the construction for which the Crown now contends.

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.

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

RICHARDSON J. concurred.

E. H. M.

Rule discharged.

(1) (1911) I. L. R. 38 Calc. 415.