

1925.

LADU  
NARAIN  
SINGH  
v.  
GOBAR-  
DHAN DAS.

DAS, J.

this point. But as has been pointed out by Banerji, J. in *Lachman Das v. Khunnu Lal*<sup>(1)</sup>, the text of Vishnu and Yajnavalkya do not place any such limit on the extent of a grand-son's liability, but treat the liability of the son and the grand-son to discharge the debt of their ancestor as co-extensive. In my opinion, whatever the text of Brihaspati may mean, that text has not been adopted in the decisions of our Courts and I am not prepared to accept it for the decision of this case. This is the conclusion at which Banerji, J., arrived in the case to which I have referred and with which I agree.

The result is that this appeal is dismissed with costs.

ADAMI, J.—I agree.

## APPELLATE CIVIL.

*Before Ross and Kulwant Sahay, J.J.*

EAST INDIAN RAILWAY COMPANY

v.

SAGAR MAL.\*

1925.

Jan., 23.

*Limitation Act, 1908 (Act IX of 1908), Schedule 1, Articles 31 and 115—Non-delivery by carrier, suit for damages for.*

A suit against a railway company for damages for non-delivery of goods is governed by Article 31 of the Limitation Act, 1908, and not by Article 115.

*Radha Sham Basak v. Secretary of State for India in Council* (2), not followed.

*Gobind Ram Marwari v. East Indian Railway Company* (3), and *Mali Ram v. East Indian Railway Company* (4), referred to.

\* Appeal from Appellate Decree no. 495 of 1922, from a decision of B. Shiva Nandan Prasad, Additional Subordinate Judge of Arrah, dated the 17th of January, 1923, reversing a decision of B. Satya Ranjan Prasad Sinha, Munsif of Arrah, dated the 14th of March, 1921.

(1) (1897) I. L. R. 19 All. 26.

(3) S. A. 985 of 1921.

(2) (1915-16) 20 Cal. W. N. 790.

(4) (1923) 4 Pat. L. T. 331.

Appeal by the defendants.

The facts of the case material to this report are stated in the judgment of Ross, J.

*Noresh Chandra Sinha* and *Siva Narain Bose*, for the appellants.

*Lakshmi Narain Sinha*, for the respondent.

Ross, J.—The question in this appeal is whether the suit is barred by limitation or not. The suit was for damages for non-delivery of a bale of cloth which was despatched on the 9th of May, 1919, from Bombay to Arrah. On the 1st of October, 1919, the plaintiff sent a notice to the Railway Company demanding the value of the goods and claiming that payment should be made within one month. Clearly, therefore, by that date the plaintiff took it that the goods ought to have been delivered and that this was reasonable is clear from the fact that the despatch from Bombay was on the 9th of May. The suit was not brought until the 15th of December, 1920. Consequently, if the Article of the Limitation Act which applies to this case is Article 30, then the suit is out of time as was held by the Munsif. The Subordinate Judge, however, applied Article 115 on the authority of *Radha Sham Basak v. Secretary of State for India in Council*(<sup>1</sup>). Now that decision has been considered by a Division Bench of this Court in *Gobind Ram Marwari v. East Indian Railway Company*(<sup>2</sup>), a case similar to the present case, where it was held that Article 31 laid down the rule of limitation applicable: see also *Mali Ram v. East Indian Railway Company*(<sup>3</sup>) and Civil Revisions Nos. 154 and 155 of 1924 where the same rule has been followed. In my opinion this case is clearly governed by Article 31 of the Limitation Act and the suit was out of time. The appeal must therefore be decreed with costs and the suit dismissed with costs throughout.

KULWANT SAHAY, J.—I agree.

*Appeal decreed.*

(1) (1915-16) 20 Cal. W. N. 790.

(2) S. A. 985 of 1921.

(3) (1923) 4 Pat. L. T. 381.

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