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Law of Carriage
(Air, Land and Sea)

Dr. Avtar Singh

Avtar Singh

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PREFACE TO THIRD EDITION

Transport and carriage system has become an important socio-economic feature of every country. The extent of social dependence is so much that carriers have become virtually indispensable to the survival of society. Carriage of men and materials to places where they are most needed plays a vital role in the development of an economy. The services of a carrier are needed as much by agriculture as by industry. Transport also adds to human welfare and makes life more convenient than it would have been otherwise. Sight-seeing, tourism, maintaining relationships with distant people, public distribution system, religious journeys, etc., have all been made possible by the services of carriers. These features account for the growing importance of the various systems and modes of carriage.

The legislation regulating this important social service, so far as transport by road is concerned, dates back to 1865. The Railways Act of 1890 and Carriers Act of 1865 were more or less on the same pattern. Both carried lists of scheduled goods specifying costly goods and prescribed a different type of booking for such goods. With the growing magnitude of human needs the differentiation between costly goods and other goods is no longer valid. Every kind of material has become valuable in its own way. All types of goods being carried by transport require an equal amount of care whether they be in the schedule or not. Even scrap is a costly material at present. Transport and booking practices have changed already. The new Railways Act of 1989 has accordingly thrown overboard the lists of scheduled goods. It has been remodelled keeping in mind the international level transport practices. The Carriers Act of 1865 is also in need of similar recodification.

The new structure of the Railways Act, 1989 necessitated for the purposes of this edition a sorting out of the whole of the old literature, its continuing validity to the provisions of the new Act and its adjustment under the new sections. A recodified Act cannot get rid of the whole of the past literature which emerges through the process of judicial interpretation of the preceding provisions, but it does make a

re-examination of the earlier accumulation of the case-material necessary. An attempt has, therefore, been made through the pages of the book dealing with railways to locate in the decisions under the preceding Act elements of continuing validity which would have a bearing upon the interpretation of the new provisions. The new Act has increased the scope of delegated legislation by leaving a large number of things to be prescribed by the relevant authorities. Accordingly, the rules which have been prescribed by the designated authorities have been reproduced in the text of the book under the relevant provisions.

The presentation of the law relating to carriage by air has been considerably improved through expanded treatment so as to take note of all the world developments in this field as well as the decided cases. The schedules of the Act have been supplied along with the text in their full form.

So far as the carriage by sea and surface is concerned, the governing Acts, namely the Carriers Act, 1865 and Carriage of Goods by Sea Act, 1925, have remained unchanged. But a thorough investigation was undertaken into cases decided under these Acts and all the cases of material utility which were discovered in this process have been added to the text so as to enrich its contents and to give a completely up to date view of the statutory and the judicial case material. In addition to the Indian and English authorities, a note has been taken of American, European, Malaysian, New Zealand and Australian authorities as well.

An all-round effort has been made to give an integrated view of all the branches of the subject. A chapter on carriage of passengers has been added.

— *Avtar Singh*

PREFACE TO SECOND EDITION

The laws of carriage have become all the more prominent in between the period of these two editions. Human population is growing. The States have to take care of human welfare. This charges them with the responsibility of carrying men to places of employment and materials to the places of need. Hence, transport and the facilities for it play a vital role in the structure of a welfare State. This makes it necessary that transport must be dependable, safe and secure. Those who undertake and organise transport must be conscious of their importance of the society. The fact that materials are necessary for welfare and that there is a general scarcity of materials, makes it a duty of the carriers to handle them with care and responsibility. A recent decision amply demonstrates judicial awareness of this fact. The railways have been told to take care of this fact that where their lines are running parallel to roads, they must take care of the safety of the road also by assuring that the passing engines do not create fire hazards to vehicles on roads by throwing out sparks.

Carriage of goods and passengers is a public profession. The law which charges them with high responsibility has also to see that this vital public profession is not discouraged. Accordingly another important decision of the period excused a carrier from liability where his operational staff members had gone for lunch during permitted lunch hours leaving the lorry on the road under usual conditions of security and the lorry disappeared.

The present edition has been enriched with such important decisions and statutory developments.

— *Avtar Singh*

CORRIGENDA

At page 140 with the heading *arrest, etc.*, instead of [Section 77(d)] read [Section 93(d)].

Law of Carriage

(Air, Land and Sea)

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