



PUBLISHED BY AUTHORITY

No. 2

CUTTACK, FRIDAY, MARCH 12, 1943

SEPARATE PAGING IS GIVEN TO THIS PART, IN ORDER THAT IT MAY BE FILED AS A SEPARATE COMPILATION

PART VI

Bills introduced into the Council of the Governor General of India and
Bills published before introduction in that Council

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Bill was introduced in the Legislative Assembly on the 10th February 1943 :—

L. A. BILL NO. 1 OF 1943

A Bill to make certain provision for appeals in criminal cases tried by a High Court exercising original criminal jurisdiction

WHEREAS it is expedient to make certain provision for appeals in criminal cases tried by a High Court exercising original criminal jurisdiction ;

It is hereby enacted as follows :—

1. This Act may be called the Criminal Procedure Amendment Act, 1943.

2. After section 411 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Code), the following section shall be inserted, namely :—

“ 411A. (1) Without prejudice to the provisions of section 449 any person convicted on a trial held by a High Court in the exercise of its original criminal jurisdiction may, notwithstanding anything contained in section 418 or section 423, sub-section (2), or in the Letters Patent of any High Court, appeal to the High Court—

- (a) against the conviction on any ground of appeal which involves a matter of law only ;
- (b) with the leave of the appellate Court, or upon the certificate of the judge or judges who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to the appellate Court to be a sufficient ground of appeal ; and
- (c) with the leave of the appellate Court, against the sentence passed unless the sentence is one fixed by law.

(2) Notwithstanding anything elsewhere contained in any Act or Regulation, an appeal under this section shall be heard by a Division Court of the High Court composed of not less than two judges, being judges other than the judge or judges by whom the original trial was held ; and if the constitution of such a Division Court is impracticable, the High Court shall report the circumstances to the Provincial Government with a view to the transfer of the appeal under section 527 to another High Court.

(3) Subject to such rules as may from time to time be made by His Majesty in Council in this behalf, and to such conditions as the High Court may establish or require, an appeal shall lie to His Majesty in Council from any order made on appeal under this section by a Division Court of the High Court in respect of which order the High Court declares that the matter is a fit one for such appeal.”

Insertion of new section 411A in Act V of 1898

3. In section 412 of the said Code, after the word “ by ” the words “ a High Court, ” shall be inserted.

Amendment of section 413, Act V of 1898

4. In section 413 of the said Code, after the words “ in which ”, in both places where they occur, the words “ a High Court or ” shall be inserted.

Amendment of section 417, Act V of 1898

5. In section 417 of the said Code, after the words “ present an appeal to the High Court ” the words “ from an original order of acquittal passed by a High Court or ” shall be inserted.

Omission of section 434, Act V of 1898

6. Section 434 of the said Code shall be omitted.

Amendments of Letters Patent of High Courts and certain Acts

7. (1) Clauses 25, 26 and 41 of the Letters Patent for the High Courts at Bombay, at Madras and at Fort William in Bengal, clauses 18, 19 and 32 of the Letters Patent

for the High Court at Allahabad, clauses 18, 19 and 31 of the Letters Patent for the High Courts at Lahore and at Nagpur, and clauses 18, 19 and 33 of the Letters Patent for the High Court at Patna shall cease to have effect.

(2) In the Oudh Courts Act, 1925,—

U. P. Act IV
of 1925

(a) to sub-section (1) of section 14, the following proviso shall be added, namely :—

“ Provided that nothing in this sub-section shall apply to a Judge or a Bench of Judges exercising original criminal jurisdiction. ” ;

(b) section 15 shall be omitted.

(3) In the Sindh Courts Act, 1926,—

Bom. Act VII
of 1926

(a) to section 12, the following proviso shall be added, namely :—

“ Provided that nothing in this section shall apply to a Judge of the Chief Court exercising the jurisdiction of the Chief Court as the principal criminal Court of original jurisdiction for the sessions division of Karachi. ” ;

(b) section 13 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

At the instance of the Bombay High Court the Bombay Government proposed to the Central Government in May, 1941, that legislation should be undertaken to provide for a restricted right of appeal in criminal cases against the decisions of a High Court exercising its original jurisdiction, on the lines contained in the Criminal Appeal Act, 1907 (7 Edw. 7, c. 23).

The Letters Patent of the various High Courts prohibit appeals in such cases, but provide a restricted power of review, corresponding to that embodied in section 434 of the Code of Criminal Procedure, 1898. The Code of Criminal Procedure provides by section 449, enacted in 1923 to implement a recommendation in the Report of the Racial Distinctions Committee, for appeals from decisions in cases tried before a High Court by a jury under the special provisions of Chapter XXXIII, but contains no provision for appeals in similar trials not held under that Chapter.

This absence of any general provision for appeals from the decisions of a High Court exercising original criminal jurisdiction is perhaps attributable to the state of English law on the subject when the Letters Patent were issued long before the passing of the Criminal Appeal Act, 1907. Provincial Governments and High Courts, when consulted upon the Bombay Government's proposal, were unanimously in favour of amending the law in the direction indicated.

This Bill is designed to give effect to the conclusions which have emerged from a collation of the opinions expressed by the various authorities consulted.

S. SULTAN AHMED

NEW DELHI

The 17th November 1942

M. N. KAUL

Secy. to the Govt. of India

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following Bill was introduced in the Legislative Assembly on the 10th February 1943 :—

L. A. BILL No. 3 OF 1943

A Bill further to amend the Government Savings Banks Act, 1873, and the Post Office Cash Certificates Act, 1917

WHEREAS it is expedient further to amend the Government Savings Banks Act, 1873, and the Post Office Cash Certificates Act, 1917, for the purposes hereinafter appearing ;

V of 1873.
XV of 1917

It is hereby enacted as follows :—

Short title

1. This Act may be called the Government Savings Banks (Amendment) Act, 1943.

Substitution of new section for sect. on 4, Act V of 1873

2. For section 4 of the Government Savings Banks Act, 1873, the following section shall be substituted, namely :—

V of 1873

Payment on death of depositor.

“ 4. If a depositor dies and probate of his will or letters of administration of his estate or a succession certificate granted under the Indian Succession Act, 1925, is not within three months of the death of the depositor produced to the Secretary of the Government Savings Bank in which the deposit is, then—

XXXIX of 1925

(a) if the deposit does not exceed five thousand rupees, the Secretary may pay the same to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, and

(b) within the aforesaid limit of five thousand rupees, any officer employed in the management of a Government Savings Bank who is empowered in this behalf by a general or special order of the Central Government may to the extent to which he is empowered by such order and subject to any general or special orders of the Secretary in this behalf, pay the deposit to any person appearing to him to be entitled to receive it or to administer the estate."

Amendment of
section 3, Act
XVIII of 1917

3. In sub-section (1) of section 3 of the Post Office Cash Certificates Act, 1917, XVIII of 1917 for the words and figures "sections 4 and 8" the word and figure "section 8" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Section 4 of the Government Savings Banks Act, 1873, restricts cases in which the Secretary, that is to say, the Postmaster-General for the area in which the Savings Bank is situate, may authorise the payment of a deposit where probate of the will of the deceased depositor or letters of administration are not produced, to those cases in which the deposit does not exceed three thousand rupees. The corresponding provision of Act XVIII of 1917, applicable to Post Office cash certificates, fixes the limit at five thousand rupees. The Bill provides that this higher figure shall henceforth be the limit for deposits in Government Savings Banks also.

2. Other officers employed in the management of a Government Savings Bank can, under the law as it stands, be empowered to pay deposits in such circumstances only where the deposit does not exceed one hundred rupees. The Bill proposes to extend this limit to five thousand rupees, with a view to accelerating the disposal of claims to deposits of deceased depositors.

3. The revision of section 4 of the Government Savings Banks Act, 1873, renders necessary a consequential amendment of section 3 of the Post Office Cash Certificates Act, 1917.

G. V. BEWOOR

NEW DELHI

The 26th January 1943

M. N. KAUL,
Secy. to the Govt. of India

GOVERNMENT OF INDIA

LEGISLATIVE ASSEMBLY DEPARTMENT

The following report of the Select Committee on the Bill further to amend the Indian Railways Act, 1890, was presented to the Legislative Assembly on the 10th February, 1943:—

We, the undersigned, members of the Select Committee to which the Bill further to amend the Indian Railways Act, 1890, was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

In sub-section (1) of the proposed new section 82A to be inserted in the Act we have omitted the word "direct" in two places as being unnecessary. We have also corrected the marginal note to the section.

We have increased the limit set to the liability of a railway administration from seven thousand rupees to ten thousand rupees, and we have omitted the provision which specifically debarred a passenger travelling without having with him a proper pass or ticket from having any right to compensation if involved in an accident.

2. The Bill was published in the *Gazette of India*, dated the 19th September, 1942.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

SULTAN AHMED
E. C. BENTHALL
J. H. F. RAPER
A. N. CHATTOPADHYAYA
NILAKANTHA DAS
R. D. DALAL
MUHAMMAD NAUMAN

NEW DELHI

The 10th February 1943

L. A. BILL NO. 31 OF 1942

[AS AMENDED BY THE SELECT COMMITTEE]

*(Words underlined indicate alterations suggested by the Committee; asterisks indicate omissions)**A Bill further to amend the Indian Railways Act, 1890*

WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for IX of 1890 the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title

1. This Act may be called the Indian Railways (Amendment) Act, 1943.

Insertion of new section after section 82. Act IX of 1890 following section shall be inserted, namely:—

Liability of Railway Administration in respect of accidents to trains carrying passengers

2. In Chapter VII of the Indian Railways Act, 1890, after section 82 the IX of 1890 following section shall be inserted, namely:—

“ 82A. (1) When in the course of working a railway an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then, whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a person who has been injured or has suffered loss to maintain an action and recover damages in respect thereof, the railway administration shall, notwithstanding any other provision of law to the contrary, be liable to pay compensation to the extent set out in sub-section (2) and to that extent only for loss occasioned by the death of a passenger dying as a * * result of such accident, and for personal injury and loss, destruction or deterioration of animals or goods owned by the passenger and accompanying the passenger in his compartment or on the train, sustained as a * * result of such accident.

(2) The liability of a railway administration under this section shall in no case exceed ten thousand rupees in respect of any one person.

* * * * *

M. N. KAUL
Secy. to the Govt. of India