A

RATAN LAL ADUKIA & ANR.

v.

UNION OF INDIA

JULY 19, 1989

B [RANGANATH MISRA AND M.N. VENKATACHALIAH, JJ.]

Indian Railways Act, 1890: Section 80—Suits for compensation against Railways—Choice of forum for cognizance of suits—Whether limited by the section itself or provisions of Section 20 Code of Civil Procedure, 1908 and Section 18 of the Presidency Small Cause Courts Act, 1882 are also applicable.

C

Statutory Interpretation—Doctrine of implied repeal—Applicability of.

Under Section 80 of the Indian Railways Act, 1890, prior to its
D **substitution by the Amendment Act, 1961, the choice of forum for filing suits for compensation for loss, destruction, damage, deterioration or non-delivery of goods etc. carried by the Railways was regulated by Section 20 of the Code of Civil Procedure or Section 18 of the Presidency Small Cause Courts Act, 1882, as the case may be. However, the new section, besides making specific reference to a certain class of suits,**
E **to be dealt with under the section and identifying the Railways Administrations which were liable to the claim, also specifically provided the places where such suits may be instituted.**

The appellants filed two separate suits in the courts at Alipore and Calcutta for recovery of certain amounts from the Railways for short
F **deliveries of consignments booked by them. The respondent contended that in view of Section 80 of the Indian Railways Act, 1890, the trial courts concerned had no jurisdiction. The trial courts rejected the objection and decreed the suits.**

In the revisions filed by the respondent, the Full Bench of the
G **High Court, by its common order, held that the trial courts had no jurisdiction. It was of the view that the new Section 80, was a complete and self-contained special law, as to the place of suing, respecting suits envisaged by the section derogating from the generally of the provisions of Section 20 of the Code of Civil Procedure, 1890 and Section 18 of the Presidency Town Small Cause Courts Act, 1882 and that it brought**
H **about an implied repeal of those provisions as to the jurisdiction of**

courts by itself providing a jurisdiction to those suits. A

In the appeals before this Court it was contended on behalf of the appellants that the legislative intent was clear: that it did not render Section 80 over-riding, by not expressly excluding Section 20 of the Code of Civil Procedure, 1890, and that even if the provisions of Section 80 were held to be a later special law, the principle of implied repeal could not be invoked, as there was no inconsistency between the two provisions and, on the contrary, both sets of provisions could exist and prevail. B

Dismissing the appeals, C

HELD: The doctrine of implied repeal is based on the postulate that the legislature which is presumed to know the existing state of the law did not intend to create any confusion by retaining conflicting provisions. Courts in applying this doctrine, are supposed merely to give effect to the legislative intent by examining the object and scope of the two enactments. But in a conceivable case, the very existence of two provisions may by itself, lead to an inference of mutual irreconcilability if the later set of provisions is by itself a complete code with respect to the same matter. In such a case, the actual detailed comparison of the two sets of provisions may not be necessary. [452F-G] D

It is a matter of legislative intent that the two sets of provisions were not expected to be applied simultaneously. [452H] E

Section 80 is a special provision dealing with certain class of suits distinguishable on the basis of their particular subject-matter. It made a conscious departure on the law as to the place of suing in respect of suits envisaged by that Section, and is a self-contained provision in regard to the choice of fora for such suits. There was no need for the legislature to specify the places of suing which would otherwise be covered by Section 20 C.P.C. unless the special prescription as to places of suing was considered to be necessary in derogation to the general law as the matter contained in Section 20 C.P.C. or the provisions in the Small Cause Courts Act. [453B-C] F G

Assam Cold Storage v. *Union of India,* AIR 1971 Assam 69; *Hindustan Machine Tools* v. *Union of India,* AIR 1985 Madras 130; *Oghamal Chaudhury* v. *Union of India,* [1974] CLJ 420 and *Union of India* v. *Indian Hume Pipe Co. Ltd.,* AIR 1981 Bombay 414, approved. H

New India Assurance Co. **v.** *Union of India,* **AIR 1981 Delhi 135 and** *Union of India* **v.** *C.R. Prabhanna,* **AIR 1977 132, over-ruled.**

Shah Babulal Khimji **v.** *Jaya Ben D. Kania and another,* **[1982] 1 SCR 187;** *Municipal Council, Palai* **v.** *T.J. Joseph and others,* **[1964] 2 SCR 87;** *Zaver Bhai Amaidas* **v.** *State of Bombay,* **AIR 1954 SC 752;** *Union of India* **v.** *Ladu Lal Jain,* **[1964] 3 SCR 624 and** *Union of India* **v.** *The Steel Stock Holders Syndicate, Poona,* **AIR 1976 SC 879, referred to.**

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 224 & 734 of 1988.

From the Judgment and Order dated 17.6.87 of the Calcutta High Court in Ref. No. 1/83 from C.R. Case No. 2938-40/81 & Civil Order No. 2537/81, C.R. Case No. 75/81, Civil Order No. 362/82, & C.R. No. 3803 of 1980.

Dr. Shankar Ghosh, Badar Durrez Ahmed, Parijat Sinha, A.K. Sarkar, A.K. Sahay for the Appellants.

Kuldip Singh, Additional Solicitor General, A.K. Ganguli, C.V. Subba Rao, A. Subba Rao and Hemant Sharma for the Respondent.

The Judgment of the Court was delivered by

VENKATACHALIAH, J. These appeals, by certificate, preferred against the common order dated 17.6.1987 of the High Court of Calcutta in Full Bench Reference 1 of 1983 raise a short and interesting question, of some general importance, whether the choice of the forum for the cognizance of suits envisaged in Section 80 of the Indian Railways Act, 1890 (As substituted by Section 14 of the Indian Railways (Amendment) Act, 1961 (Act 39 of 1961) is limited by Section 80 itself or whether provisions of Section 20 of the Code of Civil Procedure, 1908 and Section 19 of the Presidency Small Cause Courts Act, 1882, as the cases may be, in regard to places of suing, are also applicable to the suits referred to in the said Section 80.

The question, in other words, is whether the said Section 80 is a complete, self-contained, exhaustive Code in regard to the place of suing respecting suits constituting a special law for such suits excluding, by necessary implication, the operation of provisions of Section 20 of the Code of Civil Procedure, 1908 and Section 18 of the Presidency

Small Cause Courts Act, 1882. The Full Bench, resolving the earlier conflicts of Judicial opinion in the High Court on the points has held Section 80 as containing within it a self-contained scheme for suits envisaged by it and that Section 20 of the Code of Civil Procedure and Section 18 of the Presidency Small Cause Courts, Act 1882 stand excluded from operation. The Full Bench, however, has left open the question whether Section 80 also over-rides clause 12 of the letters patent.

2. In the original proceedings from which C.A. 224 of 1988 arises, appellant instituted Money Suit No. 35 of 1978 against the Respondent in the Court of the 6th Sub-Judge at Alipore, Distt.—24 Parganas, West Bengal, seeking recovery of Rs.13,200 respecting an alleged short delivery of a consignment booked with the Respondent on 24.4.1975 Ex-Ernakulam to Ranchi, a station under the South Eastern Railway Administration. Respondent contested the suit on grounds, *inter-alia*, that having regard to the said Section 80, the Court at Alipore had no jurisdiction. The trial-Court by its order 22.5.1981 having rejected this objection as to jurisdiction, Respondent preferred C.R. 2938 of 1981 under Section 115 of the Code of Civil Procedure, before the High Court to have that order revised. The matter was referred to a Full-Bench, culminating in the order now under appeal.

3. In C.A. 734 of 1988, appellant instituted a Suit No. 3831 of 1985 in the Court of the Small Causes, Calcutta, for the recovery of a sum of Rs.6,573.50p. on account of snort deliveries of two consignments booked with the Respondent on 27.4.1984 and 24.7.1984 respectively, Ex-Saugar in Central Railway to Ramkrishtopur in Eastern Railway. Similar objection as to jurisdiction having been urged, the trial Court rejected that objection and decreed the suit. This was assailed before the High Court by the Respondent. The Full-Bench, by its common-order, has held that the trial Court had no jurisdiction and directed the return of the plaint for presentation to the proper Court.

4. In order that the contentions of Dr. Shankar Ghosh urged in support of these appeals are apprehended in their proper perspective, it becomes necessary to refer to and notice the legislative history of the provision. Section 14 of the Indian Railways (Amendment) Act, 1961, substituted the old Section 80 by a new provision. The old Section reads:

> "Section 80: suit for compensation for injury to through booked traffic:

A Notwithstanding anything in any agreement purporting to limit the liability of Railway Administration with respect to traffic while on the Railway of the another Administration, a suit for compensation for loss of the life of, or personal injury to, a passenger, or for loss, destruction or deterioration of animals or goods where the passenger was or the B animals or goods were booked through over the Railways of two or more Railway Administrations, may be brought either against the Railway Administration from which the passengers obtained his pass or purchased his ticket, or to which the animals or goods were delivered by the consignor thereof, as the case may be, or against the Railway Administration on whose Railway the loss, injury, destruc- C tion or deterioration occurred."

The new Section 80 substituted in 1961 by the amending Act provides:

"80. *Suits for Compensation:* A suit for compensation for D loss of the life of, or personal injury to, a passenger or for loss, destruction, damage, deterioration or non-delivery of animals or goods may be instituted.

(a) if the passenger was, or the animals or goods were, booked from one station to another on the E railway of the same railway administration against that railways administration;

(b) if the passenger was, or the animals or goods were, booked through over the railway of two or more railway administration against the railway F administration from which the passenger obtained his pass or purchased his ticket or to which the animals or goods were delivered for carriage, as the case may be, or against the railway administration on whose railway the destination station lies, or the loss, injury, destruction, G damage or deterioration occurred;

and, in either case the suit may be instituted in a Court having jurisdiction over the place at which the passenger obtained his pass or purchased his ticket or the animals or goods were H delivered for carriage, as the case may be, or

> over the place in which the destination station lies, or the loss injury, destruction, damage or deterioration occurred." A

The changes brought about in the scheme of the provisions are quite marked. The old Section did not deal with—liability for claims in respect of goods carried by a single Railway. It concerned itself with B goods etc., carried by more than one Railways or what, in the concerned jargon, is called "through booked traffic" and provided that a suit *inter-alia* for loss, destruction, damage, deterioration or non-delivery could be brought against the Railway Administration with which the booking had taken place or against the Railway Administration of the delivery station. The old section spoke nothing of the places where such suits could be laid. The choice of the forum was regulated C by Section 20 of the Code of Civil Procedure or the relevant provisions of the Presidency Small Cause Courts Act, as the case may be. This Court in *Union of India* v. *Ladu Lal Jain,* [1964] 3 SCR 624 observed that the principal place of Railway Administration can be said to be the place where the Railways can be said to carry on business for D purposes of clause (a) of Section 20 of the Code of Civil Procedure. It was held:

> "The principle behind the provisions of Cls. (a) and (b) of S. 20 is that the suit be instituted at a place where the defendant be able to defend the suit without undue E trouble."

> "..... Union of India carries on the business of running railways and, can be sued in the Court of the subordinate Judge of Gauhati within whose territorial jurisdiction the head-quarters of one of the railways run by the Union is F situated."

This was said in a case governed by the old Section. Does the position continue to hold good even after the new Section 80 was substituted in place of the old?

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The new Section 80 (substituted by Act 39 of 1961), however, brought about far reaching changes in its scheme, the notable amongst them being three. The new Section made specific reference to a certain class of suits having regard to their subject-matter, to be dealt with under that Section. Secondly, the new Section also dealt with identity of the Railway Administrations which were made liable to the claim H

A and, thirdly, the section specifically provided the places where such suits "may be instituted". Referring generally to the scope of the changes brought about by the 1961 amendment to Chapter VII of the Railways Act, 1890, this Court, in *Union of India* v. *The Steel Stock Holders Syndicate, Poona*, AIR 1976 SC 879 observed:

B

> "The history and the object with which the radical provisions of the new Act were introduced bear testimony to change of the nature of the liability of the railway administration."

> "We, therefore, agree with the learned counsel for the respondent that under the new Act the liability of the
C Railway has been increased so as to take upon itself the responsibility of a common carrier."

The new comprehensiveness of the scheme of the amendments was one of the circumstances that commended itself to the High Court
D to persuade it to hold that the new Section 80 in Chapter VII, constituted a complete and self-contained special law as to the place of suing respecting suits envisaged by that Section derogating from the generality of the provisions of Section 20 of the Code of Civil Procedure or the provisions touching the jurisdiction of the Small Cause Courts and that with the enactment of the new Section 80 there was an
E implied repeal of those other provisions respecting such suits.

5. The High Court took due notice of the fact that the new Section did not expressly provide that in respect of suits envisaged by it, the provisions of Section 20 of the Code of Civil Procedure or Section 18 of the Presidency Small Cause Courts Act, 1882, as the case
F may be, shall no longer be applicable. The High Court took due note of the situation emerging from this omission. It noticed:

> "the new Section 80, no doubt, did not expressly provide that the said provision of Section 80 of the Act would override all other laws. But Section 80 of the Indian Railways
G Act is in the nature of the special provision applicable only to suits for compensation against the Railways."

> "The point is whether by enacting ".... the suit may be instituted" in the Courts having jurisdiction over the places mentioned in the last part of Section 80 of the Indian Rail-
H ways Act, 1890, the said Section of the Railways Act by

implication overrides section 20 of the Civil Procedure Code, 1908 and Section 18 of the Presidency Small Cause Courts Act, 1882." A

The High Court took into consideration what, according to it, was the real intention in enacting the new Section 80 and was persuaded to the view that the Section brought about an implied repeal of the other provisions as to the jurisdiction of Courts by itself providing a jurisdiction to these suits. It was observed: B

> "By mentioning the Courts in which the suits for compensation may be filed, Section 80 of the Railways Act purports to deal with matters which have been dealt with in Section 20 of the Code and Section 18 of the Presidency Small Causes Courts Act. These two sets of laws deal with the same subject of territorial jurisdiction of Courts. We are, therefore, required to ascertain whether in respect of suits for compensation against the Railways, the intention was to override the general law." C D

> "We have already indicated that Section 80 of the Railways Act was a particular or special legislation. Section 80 of the Railways Act purports to deal with the subject of places for instituting particular class of suits which was previously covered by Section 20 of the Code which was a general enactment. Two statutes cover the same field, i.e., territorial jurisdiction. Mentioning for the first time in Section 80 of the Railways Act of the places where suits for compensation may be instituted was itself 'introductive of a new law implying a negative'. When the same subject of territorial jurisdiction has been dealt with in the subsequent legislation (i.e., Section 80 of the Railways Act) the prior laws (Section 20 of the Code and Section 13 of the Presidency Small Cause Courts Act) on the same subject were not intended to subsist." E F

> "In other words, Section 80 of the Indian Railways Act by requiring something special to be done repealed by necessary implication the former general statute relating to territorial jurisdiction of Courts in so far as the suits for compensation against the Railways were concerned." G

Any other construction, according to the High Court, would lead H

A to anomalies and render Section 80 a surplusage. High Court said:

> "If it was to be held that clause (c) of Section 20 of the Code still applied to suits for compensation against the Railways, then the cause of action for the purpose of
B jurisdiction of Courts would arise not only at the three places mentioned in Section 80 of the Act but at several other places. In other words, the provisions of Section 80 of the Act relating to places where the suits for compensation may be instituted, would be, in that event, surplusage and unnecessary."

C 6. In the view of the High Court, the distinction between provisions in the New Section 80 on the one hand and Section 20 of the Code of Civil Procedure or Section 18 of the Small Cause Courts Act on the other, assumed particular significance as qualifying the Court's jurisdiction in respect of a particular subject-matter as distinct from
D those that relate to a Court's territorial jurisdiction or pecuniary jurisdiction. The High Court observed:

> "Section 80 of the Railways Act, in effect, limits the application of Section 20 of the Code by specifying the Courts which shall have jurisdiction over the suits whose subject
E matter is the claim for compensation against the Railways for loss of life or personal injury to a passenger or loss, destruction, damage, deterioration or non-delivery of animals or goods. We have already held that Section 80 of the Act, in other words is in the nature of a special provision in respect of classes of suits mentioned in Section 80 of
F the Indian Railways Act."

7. Dr. Shankar Ghosh assailing the soundness of the High Court's view, urged that the proposition on which its conclusions rest, if accepted, would render what was intended as a mere an enabling entitlement to lose its character as such and become, on the contrary, a
G limiting factor and convert a right into a liability. Dr. Ghosh said that the legislative intent was clear; it did not render Section 80 over-riding by not expressly excluding Section 20 of the Code of Civil Procedure. It expressly supplied, says Dr. Ghosh, an enabling provision when it chose the expression "..... may be instituted". It is further contended that the doctrine of implied repeal was, clearly inapplicable
H to the situation.

Dr. Ghosh commended for acceptance the reasoning of the Assam and Madras High Courts, in *Assam Cold Storage* v. *Union of India,* AIR 1971 Assam 69 and *Hindustan Machine Tools* v. *Union of India,* AIR 1985 Madras 130, respectively, in preference to the views of the Calcutta, Bombay, Delhi and Karnataka High Courts in *Oghamal Chaudhury* v. *Union of India,* [1974] CLJ 420; *Union of India* v. *Indian Hume Pipe Co. Ltd.,* AIR 1981 Bombay 414; *New India Assurance Co.* v. *Union of India,* AIR 1981 Delhi 135 and *Union of India* v. *C.R. Prabhanna,* AIR 1977 132 respectively.

8. The thrust of the arguments of Dr. Ghosh is that the construction placed by the High Court ignores the crucial aspect that while the old Section 80 did not render the destination railway as such, liable to be sued if loss was not proved to have occurred there, the new Section, however, renders the destination Railway also liable even though no loss occurred there. The provision in the new Section 80 enabling the suit to be instituted at the place of the destination Railway, where no part of the cause of action might otherwise be shown to have arisen, was, it is urged, a mere consequential provision—to give effect to the substantive provision, that the destination Railway was also liable. Dr. Ghosh emphasised the expression "may be instituted" in Section 80 to reinforce his contention that Section 80 did really expand the rights of and not seek to restrict therein suitors. Learned counsel also emphasised that section 80 did not contain any words expressly excluding clauses (a) and (b) of Section 20, Code of Civil Procedure, in so far as suits contemplated by Section 80 were concerned. The new Section 80, it is contended, did not intend to impair the choice of the forum afforded by Section 20 of the Code of Civil Procedure and that any contrary view, offends settled principles of statutory construction guiding the matter. Learned counsel invited attention to the following observations in *Ajay Kumar Banerjee & Others etc.* v. *Union of India & Others etc.,* [1984] 3 SCR 252 at page 282:

> "The general rule to be followed in case of conflict between two statutes is that the later abrogates the earlier one. In other words, a prior special law, would yield to a later general law, if either of the two following conditions is satisfied:
>
> (i) The two are inconsistent with each other;
>
> (ii) There is some express reference in the later to the earlier enactment.

A If *either* of these two conditions is fulfilled, the later law, even though general, would prevail."

and submitted that even if, conversely, the provisions of Section 80 are held to be a later special law, the principle of implied repeal could not be invoked as there was no inconsistency between the two provisions B and that, on the contrary, both set of provisions could co-exist and prevail. Learned counsel invited our attention to and relied upon the following passage in *Shah Babulal Khimji* v. *Jaya Ben D. Kania and Another,* [1982] 1 SCR 187:

"We find ourselves in complete agreement with the arguC ments of Mr. Sorabjee that in the instant case S. 104 read with Order 43, Rule 1 does not in any way abridge, interfere with or curb the powers conferred on the Trial Judge by Clause 15 of the Letters Patent. What Section 104 read with Order 43, Rule 1 does is merely to give an additional remedy by way of an appeal from the orders of the Trial D Judge to a larger Bench."

The learned counsel also placed reliance on the following observations of this Court in *Municipal Council, Palai* v. *T.J. Joseph and Others,* [1964] 2 SCR 87 at page 98:

E "In order to ascertain whether there is repugnancy or not this Court has laid down the following principles in *Deep Ghand* v. *The State of Uttar Pradesh,*:

1. Whether there is direct conflict between the two provisions;

F

2. Whether the legislature intended to lay down an exhaustive code in respect of the subject matter replacing the earlier law;

3. Whether the two laws occupy the same field."

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9. Reliance was also placed on Section 21-A inserted by Section 4 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1980 which provides:

"21A. Act to override other laws including Letters Patent: H The provisions of this Act shall have effect notwithstanding

anything to the contrary in any other law, including in particular the Letters Patent of the High Court." A

to contend that the construction opted for by the High Court would run in the teeth of this express provision.

10. Lastly, learned counsel invited our attention to the following B passage in Crawford on Statutory construction:

> "All laws are presumed to be passed with deliberation, and with full knowledge of all existing cases on the same subject, it is but reasonable to conclude that the Legislature, in passing a statute, did not intend to interfere with or C abrogate any former law relating to the same matter,unless the repugnancy between the two is irreconcilable. *Bowen* v. *Lease,* 5 Will 225. It is a rule, says Sedwick that a general statute without negative words will not repeal the particular provisions of a former one, unless the two acts are irreconcilably inconsistent." D
>
> (p. 633)

> "And, as we have already suggested, it is essential that the new statute cover the entire subject matter of the old; otherwise there is no indication of the intent of the Legislature to abrogate the old law. Consequently, the latter E enactment will be constructed as continuation of the old one." (624)

It was urged that repeal by implication is not to be presumed and that, on the contrary, there is always presumption against a repeal by implication. In order that there be a repeal by implication, there should be a F clear, irreconcilable conflict between the two sets of provisions and the later enactment should be an exhaustive code in itself in respect of the subject matter. On these submissions, Dr. Ghosh says that the view taken by the High Court is clearly unsustainable in law.

11. The contention emphasised is that where a statute merely G recognises a right pre-existing in common-law and provides a remedy, such a remedy, unless the statute expressly bans or excludes other remedies, could only be an additional or concurrent one open to an election.

It is true that where a statute does not itself bring into being a H

A new right not a pre-existing right and also provides a remedy therefore so however that the right and the remedy cannot be said to have been brought into existence for the first time uno-flatu, such a remedy would not generally be held to be exclusive but only an additional and concurrent one, along with the pre-existing remedies, unless there are express indications to the contrary in the statute itself.

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In *Municipal Council, Palai* v. *T.J. Joseph,* [1964] 2 SCR 87, this Court considered the tests of repugnancy applied under Article 254(2) of the Constitution, relevant in the examination of circumstances bringing about an implied repeal. Strictly speaking the examination of the question whether an act of Parliament prevails against the law C enacted by a State under Article 254, does not really involve any question of repeal. In *Zaver Bhai Amaidas* v. *State of Bombay,* AIR 1954 SC 752 this Court applied the test conversely, of the principle of implied repeal to cases of repugnancy under Article 254(2). It was observed:

D

> "It is true, as already pointed out, that on a question under Art. 25(1) whether an Act of Parliament prevails against a law of the State, no question of repeal arises, but the principle on which the rule of implied repeal rests, namely, that if the subject-matter of the later legislation is identical E with that of the earlier, so that they cannot both stand together, then the earlier is repealed by the later enactment, will be equally applicable to a question under Art. 254(2) where the further legislation by Parliament is in respect of the same matter as that of the State law."

F The doctrine of implied repeal is based on the postulate that the legislature which is presumed to know the existing state of the law did not intend to create any confusion by retaining conflicting provisions. Courts, in applying this doctrine, are supposed merely to give effect to the legislative intent by examining the object and scope of the two enactments. But in a conceivable case, the very existence of two provi- G sions may by itself, and without more, lead to an inference of mutual irreconcilability if the later set of provisions is by itself a complete code with respect to the same matter. In such a case the actual detailed comparison of the two sets of provisions may not be necessary. It is a matter of legislative intent that the two sets of provisions were not expected to be applied simultaneously. Section 80 is a special provi- H

sion. It deals with certain class of suits distinguishable on the basis of their particular subject-matters. A

The High Court has come to the conclusion that new Section 80 made a conscious departure on the law as to the place of suing in respect of suits of a particular subject-matter envisaged by that Section. The High Court has held that the new Section 80 is a self-contained provision in regard to the choice of fora for such suits. According to the High Court, there was no need for the legislature to specify the places of suing which woud otherwise be covered by Section 20 C.P.C. unless the special prescription as to places of suing was considered to be necessary—in derogation to the general law as contained in Sec. 20 CPC or the provisions in the Small cause Courts Act. B C

As to the words "may be instituted" occurring in that Section, the High Court observed: D

> "The use of the expression 'may be instituted' in Section 80 of the Railways Act was equivalent to 'shall be instituted'. Section 80 conferred right to institute suits for compensation against the Railways for breach of their obligations for carrying passengers, animals or goods specified in Chapter-VII of the Indian Railways Act. Both the obligation on the part of the Railways and the right of the consignor and the consignee to institute suits are now statutory in their nature. The clear intendment of the Legislature was that it would be obligatory for the plaintiffs to institute suits only in the Courts mentioned in Section 80 of the Railways Act for enforcement of the claims for compensation against the Railways." E F

12. After a consideration of the matter, we are inclined to the view that the reasoning of and the conclusion reached by the Full Bench of the Calcutta High Court that the new Section 80 is a self-contained provision are sound and require to be preferred to the view expressed by the Assam and the Madras High Courts. The view of the Full-Bench is to be preferred having regard to the weight and preponderance of the relevant interpretatory criteria. No appeal, in our opinion, could be made to Section 21A of the State Amendment to the Small Cause Courts Act either, in as much as, that provision cannot be understood to have been intended to cover a situation of the present G H

A type. It does not exclude a special law applicable to and governing a distinct class of subject matter intended to be covered by that special law.

In the result, for the fore-going reasons, these appeals fail and B are dismissed; but in the circumstances, without any directions as to costs.

N.P.V. Appeals dismissed.