

performance of an alleged contract for the sale of land and other property. The plaintiff was a broker, and the defendant wrote to him offering to sell, without naming any purchaser, the property in question at a certain price, and on certain terms, and naming the commission to be paid to the plaintiff. The plaintiff wrote back accepting the offer, to which the defendant replied that he could not recognize his acceptance as binding, as he had named no principal on whom defendant could have any hold, and that plaintiff was simply a broker. Their Lordships were clear that the defendant had made no offer to sell to the defendant individually, and they regarded the commission agreed to be paid to him as conclusive of the fact that he was intended to be merely an agent for sale.

**RAILWAY COMPANY, LIABILITY OF—LOSS OF LIFE FROM EXPLOSIVES IN A RAILWAY CARRIAGE—NEGLIGENCE—ONUS PROBANDI.**

*East Indian Railway Co. v. Kalidas* (1901) A.C. 396, is an Indian appeal. The respondent sued to recover damages for the loss of his son, who died from burns received in a fire which took place in a railway carriage in which the deceased was travelling. The fire was caused by an explosion, while the train was en route, of certain bombs and other fireworks, illegally introduced by a fellow-passenger into the carriage in which the deceased was travelling. There was no evidence whether the defendants' servants had or had not notice of the fireworks before they exploded; nor any evidence how they were carried into the train. It was contrary to the provisions of a statute for any person to take any dangerous goods with him upon any railway without giving notice of their nature; and the servants of the company were authorized to refuse to carry such goods, and might open packages believed to contain such goods. The Courts below held that the onus was on the defendants to shew that they had taken due precautions to prevent the introduction of the explosives into the carriage, and that, in the absence of such evidence, the respondent was entitled to judgment. The Judicial Committee (Lord Halsbury, L.C., and Lords Macnaghten, Davey, Robertson, and Lindley), on the other hand, held that the onus of shewing negligence was on the plaintiff. Their Lordships deny that it is the law that railway companies are common carriers of passengers, and as such, bound to carry them safely; which, as they point out, would be tantamount to saying that they would be responsible for