

luggage so carried, where the loss is attributable to the acts or omission of the passenger, otherwise it is liable.

Will you kindly note the difference in the two examples I am now going to give you. If you leave your luggage with an employé of the railway company a reasonable time before the starting of your train and it is lost, the company is liable for the loss, but if you leave the luggage an unreasonable time, the company will not be liable for the loss.

I have here been taking of what is known as personal luggage. "Personal luggage" means all things which under the particular circumstances of the case, a passenger would ordinarily carry with him, for instance, a bicycle is not "personal luggage." With respect to luggage which is not strictly personal and is carried with the passenger, a railway company is not liable for its loss, unless it has been grossly negligent.

I would have you recall to your mind that a common carrier is liable for loss without proof of negligence. To that statement of law I will now add that a warehouseman, i.e. a person who keeps goods for hire, is not liable for loss unless negligence is shown (while a person who keeps goods, but not for hire, is only liable for gross negligence, as in the case of the railway company and luggage taken by a passenger with him, but not being personal luggage).

It is often hard to make out whether a railway company is acting as a "common carrier" or as "a warehouseman." Thus, a merchant sent goods by rail "to be left till called for." Two days after they arrived at the named station, they were destroyed by fire. The Railway Company were held not to be liable for the loss, having ceased to hold the goods as "common carriers" and begun to hold them as "warehousemen."

The rule is that after a reasonable time has elapsed, after arrival, the company ceases to be a common carrier and becomes a warehouseman. The consignee cannot be expected to be present to receive delivery of goods which arrive in the night time, or of which the arrival is uncertain.