

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Owners of the Steamship "Chittagong" v. The Owners of the Steamship "Kostroma," from His Britannic Majesty's Supreme Consular Court at Constantinople; delivered 27th July 1901.*

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Present at the Hearing :

LORD HOBHOUSE.

LORD DAVEY.

LORD JAMES OF HEREFORD.

LORD ROBERTSON.

SIR RICHARD COUCH.

[*Delivered by Lord James of Hereford.*]

This is an appeal from a Judgment or order of the Consular Court of Constantinople dated 1st August 1901 whereby the Appellants—the Defendants in the suit—were declared to be liable in consequence of a collision between the above-named two vessels having been caused by the negligent navigation of the Appellant's vessel the *Chittagong*.

The collision in question occurred under the following circumstances :—

On 4th March 1900 the *Chittagong* was anchored in the Bosphorus on the western or European side below the Palace of Dolma Bagtche. She was lying at the usual anchorage ground heading up the Bosphorus. In order to continue her voyage to Singapore about 10.30 in the evening of 4th March she weighed her anchor, and after steaming slowly ahead for a

short distance she proceeded to turn short round.

At this time the *Kostroma* was coming up the Bosphorus from the Sea of Marmora and the *Chittagong* would whilst turning be running across her course. It seems to be admitted that the *Chittagong* was by her movement on a wrong course or in a wrong position whilst the *Kostroma* was on a right course. But on the part of the *Chittagong* it was urged at the Bar that although by putting her helm a-starboard she was on a wrong course the *Kostroma* by observing the lights or by giving heed to "the two blasts" from the *Chittagong* could have ascertained without doubt the course the *Chittagong* was taking and could have avoided the collision by altering or deviating from the right course on which she was. It was however answered that the lights of the *Kostroma* were open to the observation of those on board the *Chittagong* and the one short blast given twice from the former vessel was a distinct notice that she was continuing on her course.

The Judge in the Court below came to the conclusion that under the circumstances the *Chittagong* should have ported her helm, and that if this had been done the collision might not have occurred.

Their Lordships also are of opinion that the collision was solely occasioned by the negligence of those on board the *Chittagong*. Whilst it is not a decisive fact yet it is most important in its effect that the *Chittagong* was pursuing a wrong course at the time of the collision, and that such wrong course ought not to have been persisted in after it was known that the *Kostroma* had not altered hers. This latter vessel being on her right course was justified in assuming that the *Chittagong* would give way and not persist after being warned in following a wrong course.

Their Lordships are informed by the nautical assessors who have been present during the hearing of the case that the initial fault of the *Chittagong* was in having tried to make too sharp a turn and they also expressed a strong opinion that there was negligence on the part of those who had charge of the *Chittagong* in not reversing her engines and going astern when they found that the *Kostroma* was pursuing her course.

Their Lordships will therefore humbly advise His Majesty that the judgment of the Court below should be confirmed, and that the Appeal should be dismissed. The Appellants must pay the costs of the Appeal.

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