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No. 27 of 1976

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE COURT OF APPEAL IN SINGAPORE

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B E T W E E N:

KARUPPAN BHOOMIDAS (Administrator  
of the estate of Veeranan s/o  
Solayappan, deceased)

Appellant

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- and -

PORT OF SINGAPORE AUTHORITY

Respondent

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CASE FOR THE RESPONDENT

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1. This appeal from the judgment and order of the Court of Appeal in Singapore (Wee Chong Jin C.J., Choor Singh and D'Cotta J.J) dated the 4th June 1976, dismissing an appeal by the Appellant from an order of the High Court of Singapore (Chua J.) dated the 29th March 1976, by which order the Appellant's claim for damages for personal injuries sustained by the deceased Veeranan was dismissed.

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2. The facts material to this appeal are not in dispute. Veeranan was employed by the Respondent as a labourer. On the 22nd January 1968 Veeranan was working as one of a gang of men unloading planks from the wharfside into the hold of an adjacent ship; also in the gang were, inter alia, a signalman and a crane operator employed by the Respondent. During the operation Veeranan became lifted by a crane, being part of the ship's equipment,

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to a considerable height from which he then fell. He was seriously injured and has since died. In his Statement of Claim he alleged that the accident was caused by the negligence of the said signalman and/or the said crane operator. In its Defence the Respondent alleged contributory negligence on the part of Veeranan. It was agreed at the trial that if in law the Respondent was vicariously responsible for the negligence of the said signalman and the said crane operator blame should be apportioned as to 75% to the Respondent and as to 25% to Veeranan. Damages were agreed at a total of \$80,000 so that it is agreed that if the Appellant succeeds in this appeal she will be entitled to \$60,000.

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3. The issues which arise upon this appeal are as follows :-

(i) Whether By-Law 26 of the Respondent's By-Laws on its true construction operates to exempt the Respondent from liability in this case and from responsibility for the acts or omissions of the said signalman and the said crane operator.

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(ii) Whether Section 75(b) of the Straits Settlements Port Ordinance 1912 on its true construction empowered the Respondent to make By-Law 26.

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4. The By-Law and the statutory provision which have been considered relevant in the Courts below are as follows :-

(a) The Singapore Harbour Board By-Laws  
By-Law 26

"The serangs and labourers employed in discharging and loading vessels shall be under the superintendence of the ship's officers; the Board undertake no responsibility as stevedores."

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(b) Straits Settlements Port Ordinance  
Section 75

"A Board may make by-laws :-

...

- (b) for regulating the manner in which and the conditions under which the loading and discharging of vessels shall be carried out and for varying the positions of vessels loading and discharging;"

10 5. On the 29th March 1976 Chua J. formally dismissed the Appellant's claim, it being agreed that he was bound by the previous decision in favour of the Respondent of the Court of Appeal in Singapore in Alishakkar v. Port of Singapore Authority (Civil Appeal No. 25 of 1972, Suit No. 652 of 1970).

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6. On the 4th June 1976, upon appeal by the Appellant to the Court of Appeal in Singapore the appeal was formally dismissed, the Court unanimously holding that it was bound by the said previous decision.

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20 7. The Respondent firstly submits that the Court of Appeal, following its decision in Alishakkar v. Port of Singapore Authority (supra) rightly dismissed the appeal. The ordinary and natural meaning of "under the superintendence of the ship's officers" is under the management and control of the ship's officers. The effect of those words is to entitle and require the officers not only to control the task of loading the ship but also the method of performing that task. In those circumstances Veeranan, the said signalman and the said crane operator and other labourers loading the ship at the time of the accident were the employees 'pro hac vice' of the ship (Mersey Dock & Harbour Board v. Coggins and Griffiths [1947] A.C. 1, Garrard v. A.E. Southey [1952] 2 Q.B. 174). The right defendants to the action were the shipowners.

40 8. The Respondent secondly submits, as held by the Court of Appeal in Singapore, that by its clear language Section 75(b) of the Straits Settlements Port Ordinance 1912 empowered the Respondent to make By-Law 26.

9. The Respondent therefore submits that the order of the Court of Appeal in Singapore

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was right and should be affirmed for the following, among other

R E A S O N S

- (1) BECAUSE By-Law 26 of the Respondent's By-Laws on its true construction operates to exempt the Respondent from liability in this case.
- (2) BECAUSE Section 75(b) of the Straits Settlements Port Ordinance 1912 on its true construction empowered the Respondent to make By-Law 26.
- (3) BECAUSE the judgments of the High Court of Singapore and the Court of Appeal in Singapore were correct.

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ROBERT GATEHOUSE

JOHN G.C. PHILLIPS

No. 27 of 1976

IN THE JUDICIAL COMMITTEE OF THE PRIVY  
COUNCIL

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CASE FOR THE RESPONDENT

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