

**HIGH COURT OF TRIPURA  
AGARTALA  
RFA 14 of 2017**

Ranjan Choudhury  
son of late Chandradoy Choudhury,  
resident of Motor Stand,  
(New Super Engineering Works),  
Chitta Ranjan Road, PO: Agartala,  
PS: East Agartala, District: West Tripura

**-----Appellant(s)**

**Versus**

1. The State of Tripura,  
represented by its Secretary  
Government of Tripura  
Forest Department, Civil Secretariat,  
New Capital Complex, PO: Kunjaban,  
PS: Capital Complex, District: West Tripura,  
PIN: 799006.
2. The Principal Chief Conservator of Forest (General),  
ARANYA BHAVAN, Pandit Nehru Complex,  
Gorkhabasti, PO: Kunjaban, PS: Capital Complex  
District: West Tripura, PIN: 799006
3. The Divisional Forest Officer (Authorised Officer),  
Teliamura, PS: Teliamura, District: Khowai Tripura,  
PIN: 799205

**-----Respondent(s)**

For Appellant(s)	: Mr. S.M. Chakraborty, Sr. Adv. Ms. P. Sen, Adv.
For Respondent(s)	: Mr. M. Debbarma, Addl.GA
Date of hearing	: 01.10.2020
Date of pronouncement	: 26.11.2020
Whether fit for reporting	: NO

**HON'BLE MR. JUSTICE S. TALAPATRA  
HON'BLE MR. JUSTICE S.G. CHATTOPADHYAY**

**Judgment & Order**

**(S. Talapatra, J)**

This is an appeal by the plaintiff under Section 96 of the CPC from the judgment dated 04.04.2017 delivered in Money Suit 17 of 2015 by the Civil Judge, Senior Division , West Tripura, Agartala,

Court No.1. By the said judgment, the suit seeking compensation to the extent of Rs.65,12,000/- as damages has been dismissed on the basic finding as recorded out by the trial judge (the Civil Judge, Senior Division, West Tripura, Agartala, Court No.1) and reproduced hereinunder:

**Regard being had to the facts and circumstances as narrated about with reference to the evidence on record it is more than transparent that the seizure followed by custody of the vehicle was legal. Therefore, mere setting aside of the order of confiscation does not ipso facto make the defendants liable to compensate the plaintiff. Having said so we are of the considered opinion that the defendants are not responsible for having the illegal custody of the vehicle of the plaintiff. It follows, therefore, the defendants also cannot be held liable to compensate the plaintiff as proposed. Accordingly, the plaintiff also cannot be said to be entitled to have the decree or relief as sought for. All the issues accordingly stand answered in negative.**

**[Emphasis added]**

**Basis facts pleaded in the plaint**

**[2]** The plaintiff has claimed the ownership of the vehicle bearing registration No.TRL 3899 (Canter). On 27.09.1995, the said vehicle was seized by the Divisional Forest Protection Party (DFPP) at Chamapaknagar Forest Drop Gate and Shal timbers were seized from the vehicle. The vehicle, as consequence, of illegal carriage was as well seized. The said seizure ultimately led to proceeding under the Indian Forest Act against the plaintiff. On 17.05.1996, by a representation, the plaintiff demanded to the defendant No.3 (the Divisional Forest Officer) release of his vehicle on 27.05.1996. A similar demand was renewed to the Conservator of Forests with copy to the defendant No.3, but, without any positive yield. Being persuaded by the circumstances, the plaintiff approached the Gauhati

High Court by filing a writ petition being WP(C) 273 of 1999 which had the territorial jurisdiction at the relevant point of time to adjudicate. Further, by the judgment dated 04.06.1999, the said writ petition was disposed of, on directing the plaintiff to make a fresh representation within ten days to the authority concerned and such representation the dispute was directed to be disposed of within six weeks from the date of submission by a reasoned order. The plaintiff accordingly filed such representation on 10.05.2019 to the defendants No. 2 and 3. The vehicle of the plaintiff was confiscated by the order dated 27.09.1995 on the basis of the report dated 27.09.1995, by the authorised officer. The plaintiff had preferred a statutory appeal to the court of the District Judge, West Tripura, Agartala being Misc. Appeal No.70 of 2001. For purpose of hearing, the said appeal was transferred to the court of the Addl. District Judge, Court No. 2, West Tripura, Agartala. The said appeal was allowed and the order of confiscation dated 01.11.2001 was quashed by the said appellate court. The appellate order dated 01.11.2001, was challenged by the defendants (the respondents herein) by filing a petition under Article 227 of the Constitution of India being WP(C) 391 of 2005 and the said case was dismissed by this Court by the judgment and order dated 28.02.2014.

**[3]** On 27.05.2014, the petitioner made a representation to the defendants No.1 and 3 demanding compensation at Rs.15,000/- per month from 27.09.1995 when the said vehicle was seized.

According to the plaintiff, on that day, the value of the vehicle was Rs.3,00,000/- and for such illegal detention of the vehicle, not only the livelihood of the plaintiff has been jeopardized but the vehicle has been substantially damaged.

**[4]** On 23.08.2014, the plaintiff served a notice under Section 80(1) of the CPC on the respondents. Since some omissions occurred in the said notice dated 23.08.2014, an addendum-notice was served on the defendants on 30.12.2014, but the defendants did not make any response to the said notice. The plaintiff has stated that the average income from the said vehicle per day was Rs.475/- and thus in a month the income as generated by the said vehicle was Rs.14,215/-. Thus the income would be Rs.15,39,000/- for the period of 9 years. For the period of 9 years has been calculated from the day of seizure to the day of filing of the suit i.e 2004. The vehicle of the plaintiff was never released from the custody of the defendants. This fact has not been contested. As a result, according to the petitioner, the vehicle has been completely damaged.

**[5]** The plaintiff has added night halt charges with the said loss of business to the extent of Rs.5,67,000/- calculating for the said period of 9 years, on the basis of the daily charge at Rs.175/-. Thus, the monthly charge became Rs.5,250/- and the annual charge became Rs.63,000/-. For 9 years the said charge came to be calculated at Rs.5,67,000/-. Thereafter, the plaintiff has charged compound interest at 8% per annum from 2004. According to the

plaintiff, on the day of filing the suit, the plaintiff was entitled to get Rs.21,600/ on account of interest. The further amount of compensation to the extent of Rs.10,00,000/- was added for undue harassment faced by the plaintiff. In addition, the value of the vehicle has been added at Rs.3,00,000/-. Thus, the plaintiff claimed the total compensation of Rs.51,12,000/-, details of which has been provided in the claim in the manner as reflected in the table below:

Sl.	Particulars	Amount Claimed
1.	Loss in the account of hiring charges of the vehicle for nine years @ Rs.475/- per day	Rs.15,39,000/-
2.	Loss in the account of night halt charge @ Rs.175/- per night for nine years	Rs.5,67,000/-
3.	Claim in the account of interest	Rs.21,06,000/-
4.	Value of the vehicle	Rs.3,00,000/-
5.	Compensation unnecessary suffering and harassment	Rs.10,00,000/-
	<b>Grand Total</b>	<b>Rs.55,12,000/-</b>

[6] According to the plaintiff, the cause of action of the suit arose on 28.02.2014 when the defendant's possession became absolutely unlawful, in view of the judgment and order dated 28.02.2014 delivered in WP(C) 391 of 2005 titled as **The State of Tripura and another vs. Ranjan Choudhury and another.**

**What the defendants stated in their written statement**

[7] The defendants in their written statement has stated that the plaintiff did not have any cause of action to institute the suit inasmuch as the plaintiff did not have any right to raise the claim for damages against the defendants. The suit, according to them, is barred by limitation and hit by the principle of estoppel, waiver,

acquiescence and admission. Even the defendants have contended that the suit has been filed by suppression of material facts and without bringing the necessary party in the array. The defendants did not embark on any illegality and they had taken their decision strictly in accordance with law. The allegation made against the defendants are driven by mala-fide and with intention to harass the defendants. The suit has been instituted for wrongful gain of the plaintiff and wrongful loss to the defendants.

**[8]** Apart from the technical objection raised in respect of maintainability of the suit, one of the primary objection that has been embarked upon by the defendants that the ownership certificate of the vehicle being TRL-3899 was with one Priyavart Choudhury but that person has not been made party in the suit. On the day of seizure on i.e. 29.05.1995, the ownership was admittedly with that person, but the ownership had been indisputably transferred to the plaintiff on 14.05.1996, as discerned from the memorandum of appeal filed in Misc.Appeal (Forest) 13 of 1999 in the court of the District Judge, Agartala. The said fact of transfer is also reflected in the communication dated 22.06.1998 as issued by the Transport Department. It has been also contended that after 30.06.1996, the road tax was not clear, as a result the vehicle was not fit to ply after 10.09.1994 as discerned from the letter No.F.1-199/T.0/97/5826-27 dated 01.11.1997, issued by the Deputy Transport Commissioner. Facts, as stated in the plaint are mostly admitted but what had been

introduced by the defendants are that after seizure, of the vehicle no one came forward claiming release of the vehicle. After the second notice was issued in respect of the said vehicle on 17.10.1994, one Shri Moin Pal came to apprise the authorised officer that the vehicle was registered in the name of one Priyavart Choudhury but he had leased out the said vehicle to the plaintiff. The said information was verified from the transport department. On 17.09.1996, the plaintiff by filing a representation demanded release of the vehicle to the authorised officer (the defendant No.3). A similar representation was also made on 23.07.1996 for release of the vehicle but prior to that, a communication was made on 03.07.1997 from the office of the authorized officer to the Joint Transport Commissioner.

**[9]** In terms of the direction of the Gauhati High Court, apt course of action was taken. The vehicle was confiscated following the due process of law under provisions of Section 52A of Indian Forest Act as amended by the Tripura Second Amendment Act 1986. The confiscation had taken place on 02.07.1999. Having regard to the claim of compensation, the defendants have categorically stated that the plaintiff is not entitled to get any compensation in the matter. The plaintiff was asked by the letter dated 13.06.2014 to take the custody of the vehicle on or before 30.06.2014, but the plaintiff neither appeared nor submitted any further representation. The defendants have admitted that they received both the demand notices as signed by the plaintiff. But the defendants have categorically denied that

even for a single day, the said vehicle was under illegal custody of the defendants.

**[10]** Having regard to the rival pleading as noted, the following issues were framed by the Civil Judge for deciding the money- claim raised by the plaintiff.

- i. **Is the suit maintainable in its present form and nature?**
- ii. **Has the plaintiff any cause of action to institute the suit?**
- iii. **Is the plaintiff owner of the truck bearing registration No.TRL 3899 (Canter)?**
- iv. **Is the truck bearing registration No. TRL 3899 (Canter) was seized on 27.09.1995 at about 2.00 pm by the In-Charge Champaknagar Drop Gate, Divisional Forest Protection Party, Teliamura? If so, is the seizure so made was illegal?**
- v. **Has the plaintiff suffered any loss? If so, is the plaintiff entitled to compensation, as prayed for? If so, to what extent?**
- vi. **Is the plaintiff entitled to a decreed, as prayed for?**
- vii. **What other relief/ reliefs the plaintiff is entitled?**

**[11]** It appears from the records that to prove the fact relevant for granting reliefs, as prayed, the plaintiff has examined two witnesses namely, Shri Ranjan Choudhury (PW-1), the plaintiff and Shri Debasis Sarkar (PW-2) by filing their deposition in the form of affidavit under Order 18 Rule 4 of the CPC. It appears from the records that the defendants adduced Shri Atanu Chakraborty being authorised by the defendants No. 1, 2 and 3 and another witness namely, Subrata Das their depositions were brought in the proceeding under Order 18 Rule 4 of the CPC. Both the witnesses in their deposition styled them as DW-1. Subrata Das, at the time of filing the deposition by affidavit, was working as the Sub-Divisional Forest Officer, Teliamura. From the impugned judgment, it appears



that those witnesses for the defendants were not produced for cross examination by the plaintiff and thus their evidence was not rightly considered by the Civil Judge.

**[12]** The plaintiff has admitted in the evidence the following documents:

(i) the Certified copy of the order dated 25.04.2005 delivered in Misc. Appeal 17 of 2001 (Exbt-1);

(ii) Certified copy of the judgment dated 28.02.2014 in WP(C) 391 of 2005 (Exbt-2);

(iii) Copy of the advocates notice dated 28.03.2008 along with postal receipts (Exbt-3);

(iv) Copy of the advocate's notice (addendum) dated 30.12.2004 duly received by the office of Principal Secretary, Department of Forest, Govt. of Tripura along with postal receipt and postal tracing slip (Exbt-4);

(v) Copy of the letter dated 05.12.2014 duly received by the office of SP (Procurement ), Tripura, Agartala, (Exbt-5) and

(vi) Copy of the letter dated 12.12.2014 issued by the SP(Procurement) Tripura, Agartala (Exbt-6).

**[13]** After appreciating the evidence the Civil Judge has observed inter alia as under:

**“(a) the plea as to maintainability as raised by the defendants having not supported by any evidence cannot be accepted.**

**(b) cause of action being a set of facts would justify sufficiently a right to sue to have the money.”**

**[14]** It has been observed that the plaintiff's vehicle bearing No.TRL-3899 was seized on 27.09.1995 at Champaknagar Forest

Drop Gate and subsequently the vehicle was confiscated. The order of confiscation was set aside by the appellate court and subsequently the said order of the appellate court was affirmed by the High Court. Thus, according to the plaintiff that gave rise to the cause of action. In view of the above observation, issues No. (i) and (ii) have been decided in favour of the plaintiff.

**[15]** It has been further observed by the Civil Judge that it is apparent that the vehicle of the plaintiff was confiscated. However, the said confiscation order was quashed by the Additional District Judge, West Tripura, Agartala, Court No. 2 by the order 25.04.2005 (Exbt-1) in Misc.Appeal 17 of 2001. The said order of the appellate court dated 25.04.2005 was challenged by the state [the respondents herein] by filing a writ petition being WP(C)391 of 2005 under Article 227 of the constitution. By the judgment and order dated 28.02.2014 (Exbt-2), the High Court had refused to interfere with the said order. The plaintiff did not challenge the reason of seizing the vehicle or the order of seizure. There is long distance between the seizure and the confiscation. The appellate court while examining the legality of the confiscation order had occasion to observe as follows:

**"No doubt there is no dispute to the fact that the vehicle carried illegal timbers on 27.09.1995 which was seized at Champaknagar Drop Gate. The action taken at that point of time by Forest Department was wholly under the provisions of law. The confiscation made without affording reasonable opportunity to the owner to facilitate cross-examination has impeached the credibility of the confiscation order. More so the confiscation order does not show that the owner had knowledge of carrying such illegal wood and so the confiscation order suffers from violation of natural justice."**

**[Emphasis added]**

The said part of the observation as returned by the appellate court has been reproduced by the Civil Judge in the judgment dated 04.04.2014. It is apparent therefrom that the plea raised against the confiscation is structured on the lack of knowledge as regards the illegal carriage of wood by the owner of the vehicle.

**[16]** The challenge against the said observation was not entertained by the High Court while passing the judgment and order dated 28.02.2014 (Exbt-2). The Civil Judge having regard to the evidence has further observed that the action taken by the Forest Department was wholly within scope and ambit of law. The responsibility for carrying such illegal timbers was never attached to the plaintiff. But the vehicle was seized for the said illegal carriage. The plaintiff's plea is that he had no knowledge of carriage of illegal timbers and those were being carried by his driver without his knowledge and consent. The seizure of the vehicle was never questioned only the order of confiscation was interfered by the appellate court for the reason that no opportunity was afforded to the plaintiff to facilitate cross examination of the witnesses or the driver, in particular. Thus, the Civil Judge came to the finding that there had been no illegal custody of the vehicle for which the defendants might be asked to compensate the plaintiff.

**[17]** Having observed thus the issues no. (iii) and (iv) stood answered in the negative and as consequence thereof, the suit was dismissed by the Civil Judge. Now, in this appeal, the findings of the

Civil Judge on issues No. (iii) and (iv) are, in particular, under challenge. Mr. S. M. Chakraborty, learned senior counsel appearing for the appellant has submitted that when the order of confiscation was set aside by the appellate court, the state (the defendants in the suit) challenged the said order dated 25.04.2005 (Exbt-1). But the said challenge was not accepted by the High Court, as would be evident from the judgment dated 28.02.2014. Mr. S.M Chakraborty, learned senior counsel has further contended that the vehicle would have been released immediately after the order setting aside the confiscation vide the order dated 25.04.2005. But the state (the defendants) had challenged the order dated 25.04.2005 but the said challenge has been turned down by the High Court by the judgment dated 28.02.2014. Mr. Chakraborty, learned senior counsel has emphatically submitted that the custody of the vehicle since 25.04.2005 was grossly illegal and as such the defendants are liable to compensate the damages that has been suffered by the plaintiff. In this regard, it may be mentioned that the demand raised by the plaintiff by way of notice has not been denied by the defendants, rather they have stated in their written statement that they did receive the notice including the addendum dated 28.02.2014. The defendants have categorically stated in their written statement that the claim of the plaintiff is liable to be dismissed as the vehicle of the plaintiff was not under illegal custody. They have also asserted that

there was no order from the High Court to pay any compensation to the plaintiff.

**[18]** Mr. Chakraborty, learned senior counsel has taken us to the foundation of claim for compensation and seriously criticized the findings of the Civil Judge in dismissing the suit. According to him, the vehicle was kept in "an uncared condition" for a prolonged period. Thus, the financial loss was caused to the plaintiff. Mr. Chakraborty, learned senior counsel has further contended that the custody of the vehicle by the respondents was "totally an illegal and unauthorized action" on their part and therefore the defendants are liable to compensate the losses sustained by the plaintiff. Mr. Chakraborty, learned senior counsel has shown to us the components of the compensation from the plaint. The said part of the pleading has been reproduced in this judgment.

**[19]** Mr. M. Debbarma, learned Addl. GA appearing for the defendants [the respondents herein] has submitted that there is no infirmity in the judgment dated 04.04.2017. Mr. Debbama, learned Addl. GA has succinctly raised that it has not been established that the plaintiff was the owner of the vehicle bearing No. TRL 3899 (canter). Mr. Debbarma learned Addl. GA has further submitted that at the time of seizure, the registered owner was one Priyavart Choudhury and the said vehicle was in the custody of the plaintiff by dint of a lease agreement dated 04.02.1992. That does not mean that the ownership of the vehicle was transferred. Hence, the plaintiff

lacked the *locus standi* who institute the suit. In the perspective facts as narrated above and the objection raised in the appeal, the following questions fall for our consideration in this appeal viz:

- (1) Is there any cause of action to file the suit and if it was there from which day the plaintiff is entitled to claim compensation for unauthorized custody of the said vehicle bearing No. TRL 3899;
- (2) If the plaintiff is entitled to compensation, what would be quantum of compensation; and
- (3) whether the plaintiff did lack in *locus standi* when the vehicle was seized by the respondents?

**[20]** For this purpose, we may revert to the claim for a moment to explore how the plaintiff has explained the cause of action and the day when the cause of action arose for purpose of compensation. Para 19 of the plaint is relevant and the same is extracted hereunder:

**"19) The cause of action of this suit, therefore, arose on 28.02.2014 when the defendants' possession became unlawful as per the judicial pronouncement and finally after expiry of 2(two) months from the date of receipt of the Addendum of demand notice by the defendants."**

**[21]** Thus on the first blush the claim of compensation on account of hiring charges for nine years, preceeding the day of institution or the halt charges for the same period and loss of business for the said period of nine years cannot be sustained inasmuch as no claim was raised to the defendants prior to 28.02.2014, the date of the judgment of the High Court (Exbt-2). In the course of argument, Mr. Chakraborty, learned senior counsel did

not even try to explain how the compensation can be available to the plaintiff when the issue of confiscation and the custody was under consideration of the appellate court and the High Court. It has not been denied by the plaintiff that by virtue of the lease deed dated 04.08.1992, the plaintiff got the possession of the vehicle bearing No. TRL-3899. So it cannot be denied that the control of the vehicle was exclusively with the plaintiff.

**[22]** For this purpose, the finding of the appellate court as reflected in the order dated 25.04.2005 (Exbt-1) may be of some relevance. It is therefore reproduced:

**"The said Canter lorry No. TRL- 3899 originally belonged to Priya Vart Choudhry which was transferred in favour of Sri Ranjan Choudhury vide lease agreement dated 04.08.1992. It is alleged by the appellant that carrying of illegal timbers by the said lorry was not within his knowledge and so for the act of the driver the owner should not be penalised by way of confiscation."**

See Section 2(30) of the Motor Vehicle Act, 1980 and interpretation of the apex court (Karnataka State Tourism Development Corporation Ltd. v Karnataka STAT reported in (1986) 4 SCC 421.

**[23]** The said observation has not been challenged either by the plaintiff nor by the defendants. No court has disbelieved the ownership of the plaintiff as from 04.08.1992, his ownership can be deemed and later on the said vehicle was transferred to the plaintiff on 14.05.1996 (see para 10 of the written statement filed by the defendants). It has been further observed that by the judicial

pronouncements (See Exbts 1 and 2), the order of confiscation dated 01.11.2001 has been quashed only on the ground that knowledge of the owner regarding illegal carriage of 52 pieces of hand salon timbers without valid documents and hammer mark could not be proved. But the carriage of those timbers was never challenged by the owner or the deemed owner.

**[24]** True it is that unless it is proved that the owner had knowledge of such carriage or knowledge that his vehicle would be used for illegal transit of forest produce in contravention of the forest laws,, the order of confiscation cannot be maintained. The crux of the order dated 28.05.2005 is that the forest authority had utterly failed to establish the knowledge of the owner or the deemed owner of carrying such goods on 25.09.1995. Hence, it was observed that the order of confiscation of the vehicle was prejudicial of the owner and cannot be sustained. The said finding of the appellate court has been affirmed by the High Court by the judgment and order dated 28.02.2014 (Exbt-2) delivered in WP(C) 391 of 2005 [filed by the State of Tripura and Divisional Forest Officer, Teliamura division. While affirming the order of the appellate court, having referred to two judgments and the provisions of law, it has been observed that in a proceeding of confiscation, reasonable opportunity of being heard is to be afforded in view of section 52A(3)(c ) of the Indian Forest (Tripura Second Amendment) Act, 1986. It appears from the records, the notice of confiscation was issued to the registered owner namely



Priyavart Choudhruy and the plaintiff as the deemed owner to appear before the proceeding.

**[25]** By the judgment dated 28.02.2014, it has been observed that the plaintiff cannot raise the ground of breach beyond affording reasonable opportunity of being heard. It has been observed that the driver who was driving the vehicle at the relevant point of time, had implicated the plaintiff by exculpatory statement, but the driver was not produced for cross-examination. That was faulted for violation of principle of natural justice. Thus, this court has to be guided for adjudication by the settled issue that the plaintiff did not have any knowledge of such illegal carriage. The issue of validity of confiscation has been finally settled by the judgment and order dated 28.02.2015 by upholding the appellate court's order dated 25.04.2005 which order, however, was stayed by the High Court on 01.11.2005. Later on, the same was made absolute on 31.01.2012 in the proceeding of CM.Appl No.439 of 2005. The said order got vacated by the order dated 28.02.2014. Thus, the defendants were protected by the interim order in respect of the custody of the vehicle.

**[26]** Having observed thus till 28.02.2014 there had been no order operating against confiscation. The confiscation order was quashed by the order dated 25.04.2005 but the plaintiff did not assert that the cause of action was available to him w.e.f. 25.04.2005. If that was the date of cause of action, the suit would have been barred by limitation and thus the cause action has been

stated to be on 28.02.2014. Therefore, the plaintiff cannot claim any compensation before that day.

**[27]** However, if the plaintiff had suffered any damage after that period starting from 28.02.2014 for any action of the defendants, he would be entitled to compensation for such damage.

**[28]** Mr. Debbarma, learned Addl. GA has produced the status report of the vehicle on requisition of this court. The said report is supported by few photographs. A glimpse of those photographs would give an impression that the confiscated vehicle is not in serviceable condition. The defendants have categorically stated that they asked the plaintiff to take the vehicle after the decision of the High Court on 28.02.2014 but the plaintiff did not take delivery of the said vehicle on release. But, the defendants did not prove that fact in the trial. But from the evidence of the plaintiff it appears that he had categorically asserted that he made due representation for releasing the said vehicle but no order for releasing the vehicle was ever passed by the authority concerned (see para 5 of the examination in chief filed on 11.02.2016). In the cross examination, the plaintiff (PW-1) has stood by his said statement and asserted as follows:

**"It is also not a fact that inspite of receiving notice from the forest department none appeared before them [the defendants] for receiving the vehicle bearing TRL-3899."**

**[29]** In absence of any evidence in contradiction of the evidence led by the plaintiff, the court has to hold that the vehicle was not released by the defendants and the vehicle is still under their

custody. The plaintiff though in his cross-examination has denied that his vehicle was illegally transporting the timbers or that his driver could not show any valid papers in respect of transporting the timbers, but he failed to establish that timbers were being transported with valid documents. Therefore, on the basis of such statement, the seizure of the vehicle which was not challenge cannot be tainted. The action which followed is apparently in accordance with law and within the authority of the Divisional Forest Officer. Interference that has been made is based on analogy that there was lack of knowledge of the plaintiff about the illegal carriage. Taking custody of the vehicle cannot now be questioned. But after 28.02.2014, non release is grossly arbitrary and the custody for that period is relevant for purpose of ascertaining whether the plaintiff did suffer any damage during that period. We have no hesitation to hold that the plaintiff did have the cause of action for instituting the suit but his claim for compensation for the period ending on 28.02.2014 is grossly untenable.

**[30]** It is apparent from the records that the vehicle was manufactured before 04.08.1992 and as such on 28.02.2014 the capacity of the vehicle was substantially depreciated. The vehicle did not ply during the period of custody. However, certain value beyond the salvage is certainly entitled to the plaintiff. It is apparent that no care for protecting the vehicle from damage was taken by the defendants. Thus, considering these facts cumulatively we are of the

view that the damage has been caused to the plaintiff for which he had right to institute the suit for claiming compensation. Therefore, the objection as regards *locus standi*, as raised by Mr. Debbarma, learned Addl.GA stands rejected.

**[31]** Now, let us proceed to have the damage assessed for purpose of quantifying the compensation. We have scrutinized the entire records and found no documents as to the value of the vehicle. In support of the financial loss, the documents such as Exbt-6 has been produced which is hiring rate of vehicle in Tripura as determined by the Police Department. But unfortunately that has become irrelevant as we have observed that the custody was not illegal in the context of this case. In absence of the value of the vehicle, it is difficult to ascertain the value of the vehicle after 22 years its life. However, we determine a sum of Rs.1,50,000/- as the gross compensation covering losses and depreciation that the plaintiff has suffered during the period from 28.02.2014. While assessing the loss of damage, this court has taken due notice of the decision of the apex court in **State of Tripura vs. Bina Choudhury** reported in **(2007) 7 SCC 52**. That apart, the plaintiff shall be allowed to take back the vehicle as is where is basis. If the said vehicle is not taken by the plaintiff within a period of two months from the date of decree, the defendants shall be at liberty to dispose of the said vehicle for which they will be not be required to pay any price to the plaintiff nor they will be liable to any damage on that account. For this purpose, this

order will be treated as the authority for such disposal. The questions as framed are thus answered. It is mandated that the said amount shall be paid within a period of two months from the date of decree failing which the said amount shall carry interest at the rate of 7% from 28.02..2014 till the date of payment.

In the result the suit is partly allowed.

Draw the decree accordingly.

Transmit the records back thereafter.

**JUDGE**

**JUDGE**

*Dipak*

