

Privy Council Appeal No. 70 of 1918.

Charles Edward Arnold Dias - - - - - *Appellant*

v.

The Attorney-General of Ceylon - - - - - *Respondent*

FROM

THE SUPREME COURT OF CEYLON.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 26TH OCTOBER, 1920.

Present at the Hearing :

VISCOUNT CAVE.

LORD DUNEDIN.

LORD MOULTON.

LORD PHILLIMORE.

[*Delivered by* VISCOUNT CAVE.]

Since the Supreme Court gave its judgment in this case the position has been materially affected by the decision of the House of Lords in the case of *The Attorney General v. De Keyser's Royal Hotel, Limited* (1920 A.C., 508). In view of that decision it is not really disputed to-day that the plaintiff, whose cars were requisitioned, had and has the right to go before a Board appointed under the Order in Council of the 28th October, 1896, and there to get compensation assessed. That point being settled the parties have, very sensibly, agreed that the compensation shall be fixed at the amount at which the District Judge, Mr. Justice Maartensz, was disposed to assess it. The amount which he would have awarded if he had been satisfied that any compensation was payable is set out in his judgment at page 31 of the record. There should therefore be judgment for the plaintiff for that amount, and nothing remains except the question of costs. As to that their Lordships think that both parties have been in error throughout. The plaintiff was wrong in claiming to have the amount

of compensation fixed by the Court and not by a Board appointed under the Order in Council ; the defendant was wrong in denying that any compensation whatever was payable. In substance that attitude has been maintained by the parties throughout and, in the circumstances of the case, it appears to their Lordships that neither party should have costs during any part of the proceedings, in the Courts below or of this appeal. The result is that the judgment of the Supreme Court should be set aside and an order in accordance with what has been stated above substituted for it. Their Lordships will humbly advise His Majesty accordingly.



In the Privy Council.

CHARLES EDWARD ARNOLD DIAS

v.

THE ATTORNEY-GENERAL OF CEYLON.

DELIVERED BY VISCOUNT CAVE.

Printed by
Harrison & Sons, Ltd., St. Martin's Lane, W.C.

1920.