

LOSS OR DAMAGE DONE BY ANY SHIP

The claimant must establish that the ship has, done the damage (whether by collision or otherwise) to invoke admiralty jurisdiction over any claim for damage done and some authority must be shown that the damage as caused in the present case entitles the parties to proceed in rem. Damage done by a Ship means the damage done by any negligent act or behaviour of those in charge of the ship and a maritime lien arises.

Section 4 (1) (d) of the Admiralty Act (2017) deals with the above subject maritime claims.

In, *The Clara Killam* (1870) L. R. 3 Ad. Eccl. 161., and *The Energy* (1870) L. R. 3 Adm. Eccl. 48 cases the injury was directly caused by the wrongful act of the ship against which the action in rem was brought. In the case of *The Batavier* (1889) L. R. 15 P. D. 37., it was the 'disturbance made by the ship passing close to the boat that upset the boat. In the case of *The Clara Killam* (1870) L. R. 3 Ad. Eccl. 161., it was the fact that the ship entangled herself with a submarine cable, and that the cable was cut in clearing her, which was the direct cause of injury to the cable; and in the case of *The Industrie* (1871) L. R. 3 Ad. & Eccl. In *VSNL -vs- Kapitan Kud*, an admiralty action was initiated in the Bombay High Court for damage done by ship *Kapitan Kud* by breaking submarine cable.

In the case of *The Vera Cruz* (1881) L. R. 9 P. D. 96., decided in 1884, the question 'arose, and Lord Justice Bowen, in interpreting the meaning of the expression "damage done by a ship," says that it means "damage done by those in charge of a ship, with the ship as a noxious instrument;" and the Master of the Rolls, in interpreting the same words, says 'The section indeed seems to intend by the words 'jurisdiction over any claim' to give a jurisdiction

over any claim in the nature of an action on the case for damage done by any ship, or in other words, over a case in which the ship was the active cause, the damage being physically caused by the ship.

In the case of "The Vinalines Pioneer [2016] 1 SLR 448. The Singapore High Court has confirmed that damage or loss to cargo or other property caused by the carrying ship (i.e. offending ship) was not a claim within the meaning of "a claim for damage done by a ship" and did not give rise to a right of arrest.