

Book IV.
Title XXXIII.

Concerning maritime loans.¹
(De nautico fenore.)

Bas. 53.5; D. 22.2.
See C. 4.2.11 as to risk.

4. 33. 1. ---

4. 33. 2 (1). Emperors Diocletian and Maximian to Scribonius Honoratus.

It is certain that maritime loans which are made at the risk of the creditor are free from the rule relating to ordinary interest till the ship runs into the harbor.
Promulgated March 11 (286).

Note.

Nauticum fenus or pecunia trajecticia was money lent at interest with which merchandise was bought and shipped at the risk of the lender until the goods arrived at the port of destination. D. 22.2.1. It was a loan of money to be converted into goods which were to be sent across sea at the risk of the lender. It seems that in order to cast the risk on the lender, an agreement to that effect, express or implied, was required. C. 4.33.5. The borrower was not bound to repay the loan, unless the goods arrived safely at their destination (C. 4.33.5; D. 22.2.3), or unless they were lost by perils other than those of the sea. C. 4.33.4. At first the interest was not limited. Paul., Sent. 2.14.3. Justinian, however, fixed a limit of twelve per cent per annum. C. 4.32.26.

4.33.3 (2). The same Emperors to Aurelia Cosmiana.

Since you say that you loaned money on condition that it be restored to you in the imperial city, and you acknowledge that the uncertain risk attendant upon sea-navigation was none of yours, there is no doubt that you cannot demand more than legal interest on the money loaned.
Promulgated March 14 (286).

4.33.4 (3). The same Emperors to Aurelia Juliana.

Since you say that you made a maritime loan on condition that the money loaned at interest would be returned to you upon the ship's landing in the port of Salona, on its voyage, as stated, by your debtor, to Africa, and that you should only assume the risk of the voyage destined for Africa, but that through the fault of the debtor who did not even hold to the course of the voyage, unlawful goods were purchased, and the ship with its cargo was confiscated by the fisc, justice does not permit that the loss of the goods brought about not by the danger of the sea, but by the rash avarice and dishonest audacity of the debtor, should be ascribed to you.

¹ Blume added here: Read Radin p. 317.

4.33.5. The same Emperors and the Caesars to Pullinus Julianus Eucharistus.

The loss of money, given as a maritime loan at the risk of the creditor, does not fall on the debtor before the ship arrives at its destination. But without an agreement of that kind, the debtor will not be released by the misfortune of shipwreck.

Given at Retiaria October 8 (294).