

GAHC010178692008



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : MFA/15/2008

GENERAL MANAGER N F RAILWAY
NF RAILWAYS, MALIGAON, GHY-11, ASSAM.

VERSUS

M/S PANCHAM INTERNATIONAL LTD.
PARAMESWARI BUILDING, FANCY BAZAR, GHY-1, ASSAM.

Advocate for the Petitioner : MS.B DEVI, MR.S SARMA,MR.H K DAS,MR G GOSWAMI, RLY.
ADV.,MR G GOSWAMI

Advocate for the Respondent : , ,

Linked Case : MC/221/2008

GENERAL MANAGER N F RAILWAY

VERSUS

M/S PANCHAM INTERNATIONAL LTD.

Advocate for : MR.H K DAS
Advocate for : appearing for M/S PANCHAM INTERNATIONAL LTD.

:: PRESENT ::

THE HON'BLE MR. JUSTICE PARTHIVJYOTI SAIKIA

For the Appellant : Mr. G. Goswami,
Advocate.

For the Respondent : None appeared.

Date of Hearing : 21.05.2024.

Date of Judgment : 01.08.2024.

JUDGMENT AND ORDER (CAV)

Heard Mr. G. Goswami, learned counsel appearing for the appellant. None appeared for the respondent.

2. This is an appeal under Section 23 of the of the Railway Claims Tribunal Act, 1987, challenging the judgment and order dated 27.08.07 passed by the Railway Claims Tribunal, Guwahati Bench in Claim Application No.325 of 2004.
3. On 31.01.03, a consignment of 1173 bags of sugar, each bag containing 50 kg. were booked for transportation from UDGR to DMR via LMG-TPT. As per the Delivery Certificate dated 16.02.2004, there was short delivery of 699 kgs. due to loose and torn bags. The value of the short delivery was valued at a price of ₹14/- per kilogram.
4. The respondent claimed ₹9,786/- from the Railways.
5. The Railways claimed that as per the Railway Receipt, the consignment was booked as “said to contain” and the loading was not supervised by Railway staff.
6. The Tribunal directed the Railways to pay the aforesaid sum along with interest @ 6% per annum.
7. Aggrieved by the aforesaid decision of the Tribunal, the present appeal has been filed.
8. I have considered the submissions of Mr. Goswami.
9. Referring to Section 110 of the Railways Act of 1989, Mr. Goswami has pointed out that it is the

duty of the respondent to prove that it had sustained monetary loss. According to Mr. Goswami, the impugned judgment of the Tribunal is not based on evidence because the respondent did not examine any witness to prove his case.

10. This Court is of the opinion that the submission of Mr. Goswami has force in it. The judgment of the Tribunal consisting of two paragraphs is extremely cryptic. On a plain reading of the judgment, it appears that the judgment is not based on any evidence.

11. Such a judgment is not sustainable in law.

12. The appeal is allowed. The impugned judgment and order dated 27.08.07 passed by the Railway Claims Tribunal, Guwahati Bench in Claim Application No.325 of 2004, is set aside.

The appeal is disposed of. Send back the LCR.

JUDGE

Comparing Assistant