

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.1021 of 2010

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Union of India, through its General Manager, Eastern Railway, Kolkata.

.... Respondent / Appellant

Versus

Wazir Prasad, Proprietor, Bihar Salt Traders, son of Late Maugi Sao,
resident of Mohalla Gola Road, Nawada, P.O.& P.S. – Nawada.

.... Claimant / Respondent

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Appearance :

For the Appellant/s : Mr. Anil Singh

For the Respondent/s : None turned up.

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CORAM: HONOURABLE MR. JUSTICE AKHILESH CHANDRA

ORAL JUDGMENT

Date: 09-01-2015

Learned counsel for the appellant. None turned up on behalf of sole respondent who avoided appearance in spite of service of notice at the stage of hearing under order 41 Rule 21 C.P.C. and Limitation Application, consequently condoning the delay, appeal was admitted for Hearing. Notices were issued afresh but met same fate.

The appellant has preferred this appeal against order dated 30th April 2010 passed by Mr. Santosh Kumar Sinha, Member (Judicial), Railway Claim Tribunal, Patna Bench, in Claim Case No. OC 00455/2000.

The claimant respondent has come forward for compensation against short delivery of iodized salt. The only point for determination in this appeal is when consignment was booked and loaded as consignor risk without any verification by the authorities representing Railway at the time of booking/loading. In absence of anything otherwise pleaded and

proved about damage caused in the Boggy containing the consignment. Whether the claimant respondent is entitled for any compensation or not.

Learned counsel for the appellant placed reliance on the decision of this Court in a case ***Ganesh Prasad Arya Vs. Union of India reported in 2013(3) BBCJ at page 86***, and submits that present case is squarely covered under the decision referred to above. That apart before the Claim Tribunal respondent has not produced the original papers, rather, xerox copy are there with the record without any explanation for non production of the original.

On going through the record submissions find substantiated, consequently, in view of the decision already arrived as referred to above, order impugned is set aside. Appeal is hereby allowed.

Rajeev/-

(Akhilesh Chandra, J.)

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