

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO No.1110 of 1999 (O&M)
Date of Decision: 23.09.2016

Union of India

.... Appellant

vs.

Bharat Petroleum Corporation

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Gautam Kaile, Advocate
for Mr. Rajiv Sharma, Advocate
for the appellant
None for the respondent
Mr. Sandeep Vermani, Advocate for
Mr. N.S. Mann, Additional Registrar,
Railway Claims Tribunal Chandigarh

Kuldip Singh J.(Oral)

Union of India has filed this appeal against the judgment of Railway Claims Tribunal, Chandigarh Bench, Chandigarh dated 23.9.1998, vide which the compensation of Rs.14,960/- was allowed against the Railway Administration and in favour of Bharat Petroleum Corporation Ltd (A Government of India Enterprise). The Bharat Petroleum Corporation Ltd. had claimed to have booked a consignment of 94880 Litres of H.S.D. Oil with Railway Administration for carriage ex-Kandla to Jammu Tawi. It was loaded in tank wagons No.35222, 35223, 35228 and 35229. Each tank wagon contained 23,720 litres of H.S.D. Oil. When wagon No. ER.35223 was received by the applicant-respondent (herein) on 4.11.1988 at 10.30 A.M. at Jammu Tawi, it was found that the valve of the said wagon was defective. Hence, it could not be opened. On 6.11.1988, partly decanted

tank wagon was removed by the railway administration without issuing any release memo hence, the Bharat Petroleum has suffered a loss of Rs.29938/- towards the cost of 8805 litres of H.S.D. oil which was there in said wagon. Hence, they claimed loss of Rs.29938/-.

Suffice to say the liability was denied by the respondents. After recording the evidence, the Railway Claims Tribunal found that only 4400 litres of H.S.D. oil was left in the wagon. Therefore, the value of the loss comes to Rs.14960/- and accordingly the Bharat Petroleum was held entitled to said amount along with interest @12% per annum. The aforesaid amount from the date of filing claim application on 25.10.91 to 2.4.93 the date on which the case was adjourned sine die on the orders of Hon'ble Supreme Court and again @ 6% per annum from 3.4.93 to 10.4.96 when the case remained sine die and further 12% per annum from 11.4.96 till the release of payment.

I have heard learned counsel for the parties and have also carefully gone through the file.

The perusal of the judgment of the Tribunal shows that the Railway Claims Tribunal took into consideration all the facts and circumstances and found that the oil found in the said disputed wagon No.35223 was less. Railway Administration was held responsible for the loss. After going through the judgment, I do not find any illegality or infirmity in the same. It is found that the loss has been correctly assessed. Therefore, there are no merits in the present appeal. Same is accordingly dismissed, after observing that for such a short dispute, involving only Rs.14960/-, the Union of India apparently decided to spend more on filing the present appeal than paying this money to another Government of India

undertaking, namely Bharat Petroleum. The railways is advised to assess the viability of filing appeal in future in such cases.

23.09.2016
gk

(Kuldip Singh)
Judge

Whether speaking / reasoned
Whether reportable

Yes
Yes