

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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F.A.O No. 2000 of 1997

Date of decision : January 16, 2017

Union of India

... Appellant.

versus

M/s Gupta Trading Company

... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Karminder Singh, Standing counsel for the appellant.

Mr. S.K.Jain Advocate, for the respondent.

KULDIP SINGH, J

Heard.

This is the first appeal against the judgment dated 28.07.1997 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh, vide which claim application filed by the the applicant/respondent was allowed.

The short facts required to be noticed are that the petitioner booked 1050 pieces of Hand Sawn Timber, ex-Guwahati Railway Station to Pillukhera Railway Station, District Jind, on 17.10.1993 vide R.R. No.829350. The consignment was received on 07.08.1995 at wrong railway station i.e. at Jind Railway Station, after a gap of 22 months. There is a shortage of 407 pieces. It is pointed out that thereafter, the petitioner issued a notice under Section 78-B (now Section 106 of the Railway Act, 1989) and thereafter filed the present appeal on 16.10.1996.

Learned counsel for the appellant has impugned the judgment only on the short ground that the claim application was time barred. Issue of limitation was discussed in issue No.4 and it was held that claim petition

could be filed within a period of three years and three months of the date of entrustment and that the claim petition cannot be preferred until the expiry of three months from the date of entrustment of claim under Section 78-B now 106 of the New Railway Act, 1989.

In this case notice was issued on 24.02.1996 and therefore it was held that claim petition be filed within three years and three months and the same is within limitation and there is no error in the findings recorded by the Tribunal on the said issue. Further, the petitioner could not make any claim until he become aware of the shortage. The shortage came to his notice only on 07.05.1995 when the goods were delivered after the delay of 22 months.

No ground to interfere in this first appeal is made out. No other ground has been pressed to claim.

The appeal is dismissed accordingly.

January 16, 2017
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(KULDIP SINGH)
JUDGE

Whether speaking/reasoned – Yes/No

Whether reportable – Yes/No