

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

FIRST APPEAL NO.310 OF 1996

Union of India	...	Appellant
V/s.		
Century Textiles and Industries Ltd.	...	Respondents

Mr.T. J. Pandian, for Appellant.
None for Respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 8th AUGUST, 2019.

P.C.

1. Heard the Learned Counsel for the Appellant. I have perused the records.
2. The Appellant has challenged the impugned Judgment and order dated 13/11/1995 passed by the Railway Claims Tribunal in Case No. OC/9300232. By the impugned order the Railway Claims Tribunal has directed the appellant Union of India to pay to the respondent compensation of Rs.24,678/- with interest thereon @12% per annum from the date of filing of the application viz. 02/09/1993 till the date of the payment.

3. The case of the respondent was that on 08/06/1991 it had entrusted 3004 bags to the Railways to be dispatched for carriage by train from Adilabad to Aurangabad. The respondent claimed that out of 3004 cement bags 457 bags were delivered at the destination in damaged condition. The respondent further claimed that they had also entrusted 5119 bags during the same period and that the said cement bags were received in damaged condition. The respondent alleged that they had incurred loss to an extent of Rs.54/- per cement bag. The respondent had, therefore, claimed compensation of Rs.24,678/-.

4. At the outset it may be mentioned that the appellant has not disputed that the respondent has entrusted 3004 cement bags which were to be delivered from Adilabad to Aurangabad. It is also not in dispute that upon accepting the goods, the appellant had issued Railways Receipt charging freight at Railway risk rate. Hence, in terms of Section 93 of the Railways Act Railways Administration was responsible for the loss, destruction, damage, deterioration in transit or non-delivery of any consignment, unless the case was covered

under any of the exception specified in Clauses (a) to (i) of Section 93. In the instant case, the evidence adduced by the applicant amply proves that 457 cement bags were received in damaged condition. There is also evidence on record to indicate that the Railways Administration had not assessed the extent of damage at the destination station and had refused to issue Damage Assessment Certificate which necessitated the respondents to take up the issue in order to get the damage assessed. As observed by the Tribunal this is in violation of Section 81 of the Railways Act.

5. The evidence adduced by the respondent proves that it had sustained loss of Rs.24,678/-. The appellant had not adduced any rebuttal evidence to substantiate its case. The Tribunal, therefore, was justify in awarding compensation of Rs.24,678/-.

6. The appeal is devoid of any merits and is accordingly dismissed.

7. Learned Counsel for the Appellant states that the compensation alongwith interest has been deposited before this Court. The respondents are at liberty to withdraw the same.

(ANUJA PRABHUDESSAI, J.)