

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

-.-

FAO 1810 of 1996

Date of decision: 23.09.2019

M/s Bharat Surgical Industries

.....Appellant

Versus

Union of India and another

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Raj Kumar Gupta, Advocate
for the appellant

Mr. Puneet Jindal, Senior Advocate with
Mr. Ashutosh Gupta, Advocate
for the respondents

-.-

Rekha Mittal, J. (Oral)

Challenge in the present appeal has been directed against order dated 21.11.1995 passed by the Railway Claims Tribunal, Chandigarh Bench, Chandigarh (in short, 'the Tribunal') whereby claim filed by M/s Bharat Surgical Industries for recovery of Rs.58,267.60 with regard to 37 Bales of absorbant cotton wool was rejected by holding that consignment in question booked in October 1992 reached the same month (October 1992) in safe and sound condition and by relying upon Section 13 of the Railway Claims Tribunal Act, 1987, it was held that the Tribunal has no jurisdiction to decide the matter in controversy.

Counsel for the respondents, on the contrary, would argue that though the Tribunal rejected claim of the appellant but the Tribunal failed to advert to the provisions of Section 99 of the Railway Act, 1989 (in short,

'the Act'). However, he is not in a position to support findings of the Tribunal that the Tribunal has no jurisdiction to decide the matter in controversy keeping in view what has been envisaged in Section 13 of the Railway Claims Tribunal Act, 1987.

In view of the above, findings of the Tribunal that the Tribunal does not have jurisdiction to decide the matter in controversy cannot be allowed to sustain and are accordingly set aside. The matter is remitted to the Tribunal for deciding the factual controversy afresh, in view of materials on record and statutory provisions relevant in the context, after hearing the parties, in accordance with law. The parties through their counsel are directed to appear before the Tribunal on 04.10.2019.

(Rekha Mittal)
Judge

23.09.2019
Mohan Bimbra

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No