

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

344

Date of decision: 10.09.2019

FAO No.2836 of 1996 (O&M)

Punjab Small Industries and Export Corporation Ltd. ... Appellant

Versus

Union of India ... Respondent

FAO No.2837 of 1996 (O&M)

Punjab Small Industries and Export Corporation Ltd. ... Appellant

Versus

Union of India ... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. Sanjeev Sharma, Advocate for the appellant.
Mr. Rajeev Sharma, Advocate for the respondent.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.2836 and 2837 of 1996 as identical questions of law and fact are involved for adjudication. For facility of reference, facts are taken from FAO No.2836 of 1996.

Counsel for the appellant-Punjab Small Industries and Export Corporation Ltd. (in short 'the PSIEC') would contend that though the Railway Claims Tribunal has allowed recovery in respect of shortage of pig iron but interest has been allowed @ 12% per annum w.e.f. 03.08.1995 in place of from the date of despatch of consignment on 07.08.1992.

Another submission made by counsel is that the Tribunal has rejected claim for refund of freight charges in respect of shortage of consignment, in view of observations recorded in para 12 of the impugned award but there is no material on record to prove that freight was pre-paid by the consignor and consignment was FOR destination.

Counsel representing the respondent, on the contrary, has supported the impugned award with the submissions that interest has rightly been allowed w.e.f. date of filing of application and claim in respect of freight was rightly rejected.

I have heard counsel for the parties, perused the paper book and incomplete records received from the Tribunal.

The claim in respect of shortage in consignment was lodged with the Railway authority in June, 1993 on the basis of shortage certificate issued in April, 1993. The appellant had been pursuing its remedy with the Railway administration for recovery of value of short consignment and failing to succeed in their venture on the administrative side, filed the application before the Tribunal on 03.08.1995. Counsel for the respondent has not disputed that certificate with regard to shortage was issued by the Railway authority in April, 1993 and claim by the appellant was lodged with the authorities in June, 1993. In the given circumstances, appellant is entitle to interest on the amount awarded by the Tribunal w.e.f June, 1993, at the rate of interest allowed by the Tribunal.

So far as plea of the appellant with regard to refund of freight charges in respect of shortage, documents produced before the Tribunal are not a part of records received from the Tribunal. In the given circumstances, it would be in the fitness of things, if findings of the Tribunal recorded in para 12 of the award are set aside and the appellant is relegated to the Tribunal for getting a fresh decision in respect of its entitlement to refund of freight charges qua the shortage.

In view of what has been discussed hereinbefore, the appeals are partly allowed. Parties through their counsel are directed to appear before the Railway Claims Tribunal, Chandigarh Bench, Chandigarh on 30.09.2019 for decision of the question of freight charges afresh. The Tribunal shall decide the issue within six months of parties putting in appearance.

10.09.2019

ashok

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No