

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

Date of decision: 19.09.2019

1. FAO No.2633 of 1999 (O&M)

Steel Authority of India Ltd. ... Appellant

Versus

Union of India ... Respondent

2 FAO No. 2632 of 1999 (O&M)

Steel Authority of India Ltd. ... Appellant

Versus

Union of India ... Respondent

3 FAO No. 2636 of 1999 (O&M)

Steel Authority of India Ltd. ... Appellant

Versus

Union of India ... Respondent

4 FAO No. 2634 of 1999 (O&M)

Steel Authority of India Ltd. ... Appellant

Versus

Union of India ... Respondent

5 FAO No. 1904 of 2001 (O&M)

Union of India ... Appellant

Versus

Steel Authority of India Ltd. ... Respondent

6	FAO No. 1908 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
7	FAO No. 2108 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
8	FAO No. 988 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
9	FAO No. 1682 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
10	FAO No. 1683 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
11	FAO No. 1685 of 2001 (O&M)
Union of India	... Appellant
Versus	

Steel Authority of India Ltd.	... Respondent
12	FAO No. 1686 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
13	FAO No. 1963 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
14	FAO No. 1964 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
15	FAO No. 2323 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
16	FAO No. 2324 of 2001 (O&M)
Union of India	... Appellant
Versus	
Steel Authority of India Ltd.	... Respondent
17	FAO No. 2325 of 2001 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
18	FAO No. 2326 of 2001 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
19	FAO No. 2327 of 2001 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
20	FAO No. 2313 of 2001 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
21	FAO No. 968 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
22	FAO No. 969 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
23	FAO No. 970 of 1999 (O&M)

Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
24	FAO No. 971 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
25	FAO No. 972 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
26	FAO No. 973 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
27	FAO No. 974 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
28	FAO No. 975 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent

29	FAO No. 976 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
30	FAO No. 977 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
31	FAO No. 978 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
32	FAO No. 979 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
33	FAO No. 980 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
34	FAO No. 981 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	

Union of India	... Respondent
35	FAO No. 982 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
36	FAO No. 983 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
37	FAO No. 984 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
38	FAO No. 1006 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
39	FAO No. 1007 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
40	FAO No. 2635 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
41	FAO No. 3289 of 1999 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
42	FAO No. 2637 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
43	FAO No. 985 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
44	FAO No. 986 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
45	FAO No. 987 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
46	FAO No. 988 of 1999 (O&M)

Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
47	FAO No. 989 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
48	FAO No. 990 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
49	FAO No. 991 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
50	FAO No. 992 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
51	FAO No. 993 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent

52	FAO No. 994 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
53	FAO No. 995 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
54	FAO No. 996 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
55	FAO No. 997 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
56	FAO No. 998 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
57	FAO No. 999 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	

Union of India	... Respondent
58	FAO No. 1000 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
59	FAO No. 1001 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
60	FAO No. 1002 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
61	FAO No. 1003 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
62	FAO No. 1004 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant
Versus	
Union of India	... Respondent
63	FAO No. 1005 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
64	FAO No. 1008 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
65	FAO No. 1009 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
66	FAO No. 1010 of 1999 (O&M)
Steel Authority of India Ltd.	... Appellant

Versus

Union of India	... Respondent
67	FAO No. 240 of 2000 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
68	FAO No. 241 of 2000 (O&M)
Union of India	... Appellant

Versus

Steel Authority of India Ltd.	... Respondent
69	FAO No. 1684 of 2001 (O&M)

Union of India ... Appellant

Versus

Steel Authority of India Ltd. ... Respondent

70 FAO No. 1687 of 2001 (O&M)

Union of India ... Appellant

Versus

Steel Authority of India Ltd. ... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Mr. D. Khanna, Advocate for Steel Authority of India Ltd.

Mr. Karminster Singh, Advocate for UOI
in FAO Nos.968 to 1010 of 1999, 240 & 241 of 2000, 1908,
2108, 988, 1682 to 1687, 1963, 1964 of 2001.

Mr. Jagdish Marwaha, Advocate for UOI
in FAO Nos.2323 to 2327 of 2001.

Mr. Sandeep Vermani, Advocate
for Railways Claims Tribunal.

Mr. Rohit Suri, Advocate for UOI
in FAO Nos.2636 and 2637 of 1999.

Mr. G. S. Bajwa, Advocate for UOI
in FAO Nos.2632 to 2635, 3289 of 1999,1904 & 2313 of 2001.

REKHA MITTAL, J. (Oral)

This order will dispose of FAO Nos.968 to 1010, 2632 to 2637
& 3289 of 1999, 240 & 241 of 2000 and 1904, 1908, 2108, 988, 1682,
1683, 1684, 1685, 1686, 1687, 1963, 1964, 2323, 2324, 2325, 2326, 2327,
2313 of 2001 as identical questions of law and fact are involved for

adjudication. For facility of reference, facts are taken from FAO No.2633 of 1999.

Counsel for the appellant would argue that consignments of pig iron were entrusted to the railway administration on different dates against different RRs for carriage ex-bokaro and Rourkela for delivery at Dhandari Kalan. The consignments were booked at railways' risk and weighment was witnessed by the railways staff. At destination, on visual inspection by the Field Officer of the Punjab Small Scale Industries and Export Corporation (handling agency of the appellant), shortage in the material was suspected and the railways were requested for re-weighment before delivery but the same was declined. The appellant then got re-weighment done from an independent surveyor to find out shortage in the consignments. Thereafter, notice under Section 106 of the Railways Act was served upon the respondent for making good the loss. Since the claims were not settled, the appellant was constrained to file claim application(s) before the Tribunal for compensation.

Counsel would further argue that since the railway authorities did not agree for re-weighment of consignments before delivery, there was no option with the appellant except to get the delivered materials re-weighed from an independent surveyor to find out the shortage. It is further argued that even if the appellant had not issued any notice to the railways calling upon to send a representative on its behalf for associating the re-weighment proceedings by independent surveyor, the respondents cannot

escape liability to pay compensation for short delivery.

Counsel representing the respondents, on the contrary, has supported the award whereby application(s) for grant of compensation has been rejected. It is vehemently argued that weighment, if any, done by surveyor of the appellant without notice to the railways amounts to finding alleged shortage unilaterally, therefore, the Railway Claims Tribunal has rightly dismissed the application(s) for grant of compensation.

I have heard counsel for the parties and perused the award. A relevant extract therefrom, reads as follows:-

While the applicant company was well within its right to get the consignments surveyed through an independent surveyor, at the same time, it was also imperative that the respondent-railway administration should have been associated in the re-weighment process. On perusal of records of each case, we find that there is a copy of letter written by the handling agents of applicant company to the respondent-railway administration for deputing their representative for witnessing the re-weighment of the consignments, but the applicant has not led any evidence to prove if these letters were actually sent to the respondent-railway administration. Even in the written statement also, the respondent-railway administration has taken this plea that no notice was given to them for witnessing the alleged re-weighment by the surveyor and the applicant has not controverted this plea by filing any replication.

Further held in para 8, reads thus:-

It transpires that the applicant did not make any request to the respondent-railway administration for

witnessing the alleged re-weighment by the independent surveyor and the survey reports being unilateral, cannot be relied upon to come at a conclusion that there was any shortage in the consignments in question. The alleged shortage in the consignments in question, therefore, is not proved and the applicant is not entitled to have any compensation from the respondent-railway administration.

Counsel for the appellant has not disputed correctness of the factual findings recorded by the Tribunal. That being so, it becomes undisputed position of the case that no notice was issued to the railways to associate at the time of re-weighment of consignments by the so called independent surveyor appointed by the appellant or its handling agency. In the given circumstances, the question for consideration is whether the report prepared by surveyor appointed by the appellant qua re-weighment of consignments can be held binding against the railways in order to fasten liability to pay damages for shortage.

If such a plea of the appellant is accepted, it would amount to allowing a claim based upon document(s) prepared in breach of principles of natural justice. The matter would have been different had the appellant served a notice upon the railways requesting for deputing a representative at the time of re-weighment of consignments by surveyor appointed by the appellant or its handling agency and the railways had failed to respond to the notice issued by the consignor. Since in the present case, the appellant has failed to establish that any such notice was actually sent to the railway administration, it is difficult to accept contention of the appellant that

findings recorded by the Tribunal suffer from an error much less perversity, warranting intervention.

No other point has been raised.

In view of what has been discussed hereinbefore, finding no merit, the appeals fail and are accordingly dismissed leaving the parties to bear their own costs.

19.09.2019

ashok

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No