

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

FAO No. 3017 of 1999

Date of Decision: February 17, 2020

Union of India		...Appellant
	Versus	
M/s Grasim Industries Ltd.		... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Ms. Aarti Goyal, Advocate for
Mr. P.C. Goyal, Advocate
for the appellants.

Mr. Abhay Gupta, Advocate for
Mr. Amar Vivek, Advocate for the respondent.

FATEH DEEP SINGH, J. (Oral)

The Union of India through this appeal has laid challenge to an Award dated 28.05.1999 of Railway Claims Tribunal, Chandigarh Bench, Chandigarh, whereby, while allowing the claim of the then M/s Grasim Industries Limited, now respondent has awarded a sum of Rs.1,59,874.50/- with proportionate costs and interest @ 12% per annum from the date of filing of the claim application till the payment.

Heard Ms. Aarti Goyal, Advocate for the appellants and Mr. Abhay Gupta, Advocate for respondent and perused the records.

The admitted stance of the two sides is that the then

applicant has dispatched from Jawad Railway Road, a consignment of cement to Patiala on 04.01.1995 through railway rake under railway receipts No. 286090 under invoices No. 11 to 19. However, at the destination articles in respect of railway receipt No. 286087 to 286090 were completely damaged, thus, causing financial loss to the claimants. It was with much persistence, the railways, made assessment of loss to the extent of 1850.40 bags whereas the claimant's claim that it was of 1990 bags. It is on the basis of this loss, the claim has been laid and it was allowed by the impugned findings.

Appreciating the submissions of the two sides, in their reply, the railway authorities, the present appellant duly accepting the fact of consignment having been received by them and the fact that on account of unexpected rain damage was caused to the consignment, though on behalf of the appellants much stress has sought to be laid that the railways were protected by virtue of Section 93 (I) and 93 (f) of the Railway Act. It is not in any manner displaced in the stand of the railways and so in the arguments before this Court on behalf of the appellant that goods were damaged on account of unexpected rain. The factum that the goods were lying in the open is in itself suggestive as to the cause of this damage being arising out of sheer negligence of the railways. It is, no doubt, the obligation of the railways to provide sufficient covered space to take care of the consignment so put by a person and to take

necessary precautions to prevent any damage to the consignment. The own assessment report of the railways, which too, has been relied upon by the Tribunal has taken the compensation @ Rs. 86.40/- per bag and, therefore, taking into the total loss on account of this damage has calculated the amount to the tune of Rs.1,59,874.50/- after considering the fact that as per the own report of the railways, there is a damage to 1990 bags. The counsel for the appellant could not show how there has been wrong interpretation of the evidence and much less the law in arriving at the conclusion by the Tribunal. Since loss has been accrued to the applicant/company in January, 1995 and having been denied their legitimate right to fruitful use of the goods are certainly entitled to interest on the assessed amount and keeping in view the then prevalent bank rate, the Tribunal has rightly awarded interest @ 12% per annum.

Thus, in the light of the above discussion, there appears to be no illegality or perversity in the impugned findings of the learned Tribunal, which needs to be upheld and the appeal being without any merits stands dismissed.

February 17, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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