



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

217

FAO-1027-1998  
Date of decision : 17.07.2024

Union of India ..... Appellant

versus

Shree Cement Limited ..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Shivoy Dhir, Senior Panel Counsel  
for the appellant-UI.

None for the respondent.

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PANKAJ JAIN, J. (Oral)

1. This is an appeal preferred against order dated 18.11.1997 passed by Railways Claim Tribunal, Chandigarh.
2. Respondent filed claim application before the Tribunal claiming that he got booked the consignment of 3724 bags of OPC jute cement against railway receipt No.257074 dated 29./30.06.1993 ex Bangur Nagar to Sujanpur and paid an amount of Rs.89,217/- as freight charges. The consignment was loaded in six wagons by the railways and was to be delivered at the destination. However, the consignment never reached the destination. When the company contacted Station Superintendent, Northern Railway, Sujanpur, they were informed that wagons in question have not arrived at Sujanpur siding and might have been deported elsewhere. It was further claimed that in the 1994, a letter was received from Garrison Engineer, 574, Engineer Park c/o 56



APO stating that the consignment was lying with them since July 1994 and the majority of the consignment had deteriorated owing to weather conditions. Thus, it is evident that the railways delivered the consignment wrongfully to the military authorities and were thus liable to make good for the losses suffered by the applicant.

3. The claim of the applicant was resisted by the railways claiming that the consignment did reach the destination, but the applicant having not turned to take delivery of the same were negligent in performing their part and thus are not entitled for any compensation. Further reliance was being placed upon Section 99 of the Railways Act, 1989.

4. On the basis of pleadings raised by parties, Tribunal framed following issues:-

- “1. Whether the claim application has been filed through a competent and authorised person?  
OPA
2. Whether the applicant is entitled to recover the claim amount on the grounds mentioned in the claim application? OPA
3. Whether the consignment reached destination within time and the applicant did not turn up to take the delivery and the railways are protected u/s 99 of the Railways Act? OPR
4. Relief.”

5. On analyzing the evidence, the Tribunal came to the conclusion that from the correspondence placed on record, it was cleared that the claimant company came to know about arrival of consignment only on receipt of letter from Garrison Engineer, ETP



military siding. Further in the letter dated 06.01.1995, it was brought to the notice of the Chief Commercial Manager, Northern Railway that the consignment was wrongly delivered to the military authorities. Thus, Tribunal concluded that the consignment having never reached its designation for delivery, the railways was required to compensate the claimant.

6. Mr. Dhir while assailing the judgment submits that the applicant himself clubbed the two consignments. Consignment in question was tagged with the consignment which was meant to be delivered to the military authorities and also earned rebate on the freight charges. Thus, no fault can be found with the delivery of the consignment with the military authorities.

7. I have heard Mr. Dhir and have carefully gone through the records of the case.

8. Mr. Dhir does not dispute that as per the receipt issued by the railways at the time of booking of the consignment, the same was meant to be delivered at Sujapur Railway Station. However, the consignment never reached Sujapur, but was delivered at ETP siding which is meant for military supplies only. It is also not in dispute that despite repeated correspondence between the claimant as well as railways, the consignment could not be traced and was traced only after the applicant received communication from the Garrison Engineer. Thus, the inevitable conclusion remains that despite the railways having charged the claimant for freight and the consignment destined for delivery at Sujapur Railway Station, the same never reached Sujapur

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9. In view of above, this Court does not find any reason to interfere in the present appeal. Resultantly, the same is dismissed.

(PANKAJ JAIN)  
JUDGE

17.07.2024  
Dinesh

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|-----------------------------|-----|
| Whether speaking/reasoned : | Yes |
| Whether Reportable :        | No  |