



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

**FAO-2861-1999 (O&M)
Date of decision : 15.01.2026**

The Punjab State Co-operative Supply & Marketing Federation
Ltd.

....Appellant

Versus

Union of India & ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Vikas Singh, Sr. Advocate with
Ms. Anamika Sheoran, Advocate
for the appellant.

Mr. Bharat Bhushan Sharma, Sr. Panel Counsel
for respondent No.1 (i & ii)

PANKAJ JAIN, J.(ORAL)

1 Appellant is in appeal agreed of the order passed by Railway
Claims Tribunal, Chandigarh Bench, Chandigarh dated 26.05.1999.

2 The appellant filed a claim application before the Tribunal
seeking recovery of Rs.9,23,498/- as compensation from the respondent-
railways on account of damage to the consignment comprising 147 bales of
B.Twill gunny bags, dispatched by respondent No.3 through the railways
vide railway receipt No.320128 dt. 22.03.1994 from ex. Kakinada to
Faridkot at railway risk rate. The consignment as per the claimant was
loaded in wagon No.26950 under the supervision and in presence of the



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railway staff. The consignment was received at Faridkot on 04.05.1994. The entire consignment was completely burnt and damaged. A request was made by the claimant for assessment which was deliberately avoided by the railway authorities. Claimant claimed that it is under the aforesaid circumstances that he refused to take delivery of the consignment vide letter dated 19.07.1994. Statutory notice as required under Section 106 of the Railway Act, 1989 (for short, 'the 1989 Act') was served and a claim amounting to Rs.9,23,498.83 was raised. Claimant claims that the lawful claim was illegally rejected and the consignment was put to auction and was sold for Rs.1,03,350/- which was adjusted against wharfage amount of Rs.3,82,366/-. Claimant accordingly seeks decree of Rs.9,23,498/- along with interest @ 18% per annum from the date of booking of the consignment till the actual realization of the amount.

3 Claim petition was contested by railways. Booking of the consignment is admitted. Damage to the consignment is also not disputed. However, it is claimed that the consignment in question caught fire at Tuglakabad on 09.04.1994. All efforts were made to extinguish the fire and accordingly it was claimed that the consignment was not fully damaged as alleged. The railways sought to take shelter under Section 93(i) of the 1989 Act and claimed exemption from liability. Rather, the railways claimed that the appellant wrongfully refused to take consignment which is in violation of the mandate of Section 82 of the 1989 Act and is thus liable to pay wharfage charges amounting to Rs.3,82,366/-. The auction of the consignment having



fetches amount of Rs.1,03,350/-, the claimant is still liable to pay an amount of Rs.2,78,866/-.

4 Claim of the appellant was put to trial by the Tribunal framing following issues :-

“1. Whether the present claim application has been filed by a competent and authorised person?

2. Whether the applicant is entitled to the claimed amount as mentioned in the claim application?

3. Whether the railway administration is protected u/s 93(i) of the Railways Act, as mentioned in the written statement? OPR

4. Whether the applicant refused to join the assessment and refused to take delivery of the consignment? if so, its effect. OPR

5. Relief.”

5 While returning finding on issue No.3, Tribunal found that the Administration is not entitled to protection under Section 93(i) of the 1989 Act and decided the issue in favour of the claimant and against the railway Administration.

6 While deciding issue No.4 Tribunal, however, held that the consignee had no right to refuse to take the delivery and thus was at fault.

7 While deciding issue No.2 Tribunal held the claimant entitled to recovery of Rs.1,03,500/- holding that the wharfage charges can be recovered by the railway Administration.

8 Learned senior counsel appearing for the appellant has assailed the findings recorded by the Tribunal. He submits that even though railway Administration has been denied refuge under Section 93 of the 1989 Act.

Tribunal instead of decreeing the claim of the appellant for 100% loss to



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consignment, erred in holding him entitled to a claim of Rs.1,03,500/- only. He contends that the railway Administration having invoked Section 93 of the 1989 Act, the damage to the consignment is admitted. In these facts the appellant was entitled to a decree equivalent to the value of the consignment i.e. Rs.9,23,498/-.

9 *Per contra* Mr. Bharat Bhushan Sharma, Advocate for the respondents submits that the fact that the auction of the consignment fetched an amount of Rs.1,03,500/- itself shows that the consignment was not totally damaged as claimed. Claimant himself having refused delivery of the consignment is responsible for the damage caused to the products. Section 82 of the 1989 Act has been rightly invoked by the Tribunal to deny the claim of the claimant. The amount received by the railway authorities in auction has been thus rightly decreed by the Tribunal denying the rest of the relief to the claimant.

10 I have heard learned counsel for the parties and have carefully gone through records of the case.

11 Facts are not much in dispute. It is an admitted case that the consignment was booked vide railway receipt No.320128 dated 22.03.1994 at railway risk rate. Railways was required to deliver the consignment at Faridkot railway station. There is a candid admission on part of the railways that the consignment was damaged on the way at Tughlakabad. Even though the Railway Administration has sought to take shelter under Section 93(i) of the 1989 Act, the Tribunal answered the issue raised against the railways. There being no appeal by the railways, the finding on issue No.3



has attained finality. Now, the only issue that requires consideration of this Court is :-

“Whether under Section 82 of the 1989 Act, the appellant can be denied relief qua the consignment?”

12 In the considered opinion of this Court, Tribunal completely misread Section 82 of the 1989 Act. The bare provision reads as under :-

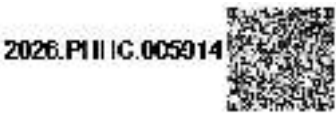
82. Partial delivery of consignments.—(1) *The consignee or endorsee shall, as soon as the consignment or part thereof is ready for delivery, take delivery of such consignment or part thereof notwithstanding that such consignment or part thereof is damaged.*

(2) In the case of partial delivery under sub-section (1), the railway administration shall furnish a partial delivery certificate, in such form as may be prescribed.

(3) If the consignee or endorsee refuses to take delivery under sub-section (1), the consignment or part thereof shall be subject to wharfage charges beyond the time allowed for removal.

13 Admittedly, the claimant refused to take delivery. His action can be traced to Section 82 (1) of the 1989 Act. The consequence thereof has been provided under Section 82 (3) of the 1989 Act. In terms of the statutory mandate, mere refusal to take delivery does not absolve railway Administration of its liability. However, refusal by the consignee or endorsee though makes him liable to pay wharfage charges.

14 In view thereof, this Court finds that the Tribunal erred in decreeing the claim of the appellant by granting merely a sum of



Rs.1,03,350/-. The value of the items is on record in terms of invoice which was also handed over to railways at the time of booking the consignment.

15 Accordingly, the present appeal is allowed.

16 Claimant is held entitled to a sum of Rs.9,23,498/-. Railways shall be entitled to recover wharfage charges of Rs.3,82,366/- and shall be liable to pay the remaining amount within a period of two months. Any amount already paid shall be set off. The amount payable shall carry interest @ 6% per annum.

15.01.2026
Pooja Sharma-I

(PANKAJ JAIN)
JUDGE

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