

(2003) 03 GAU CK 0005
In the Gauhati High Court
Case No : M.F.A. No. 31 of 1999

Chain Sukh Jain

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 26-03-2003

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 23

Citation : (2004) 1 ACC 230 : (2003) 3 GLR 267

Hon'ble Judges : S.K. Kar, J

Bench : Single Bench

Advocate : H.P. Burman, for the Appellant; D.K. Nair, for the Respondent

Final Decision : Dismissed

Judgement

S.K. Kar, J.—The appellant, Chain Sukh Jain, Proprietor of Cement House, Dibrugarh, has challenged the order dated 11.9.1998 rendered in Application No. 24/998 on the strength of Section 23 of Railway Claims Tribunal Act, 1987.

2. There is a short delivery of about 329 bags of Cement booked from Burdwan to Dibrugarh under Invoice No. 3/664239 dated 25.2.1996. Claim for Rs. 65800.00 @ Rs. 200.00 per bag was preferred and Rs. 45572.00 was paid by the respondent. Appellant made a further claim of Rs. 20228.00 as the balance of the compensation to be recovered. It is contended that the market rate at Dibrugarh was Rs. 169.00 per bag at that time but appellant was arbitrarily allowed rate at Rs. 145.00 per bag. Hence this appeal.

3. I have heard both sides and perused the materials in LCR that was called for. The contention of appellant about market rate being Rs. 169.00 per bag at Dibrugarh was not substantiated by any evidence to that effect save and except his statement in the application. When there was no concrete evidence a guess work is a must for the disposal of the case. Even if it was done arbitrarily equally the appellant submitted his rate also arbitrarily without any supporting materials. Therefore, I find that there is no error as such in the findings of the learned

Railway Claims Tribunal. There is no merit in the appeal.

4. Appeal is accordingly dismissed. Send down the LCR forthwith.