

(2003) 03 GAU CK 0061
In the Gauhati High Court
Case No : M.F.A. No. 24 of 1999

Hanuman Prasad Sarma

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 26-03-2003

Acts Referred:

Railway Claims Tribunal Act, 1987 — Section 13

Citation : AIR 2004 Guw 26

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

Bench : Single Bench

Advocate : H.P. Barmas, for the Appellant; U.K. Nair, for the Respondent

Final Decision : Allowed

Judgement

S.K. Kar, J.—This appeal, u/s 23 of Railway Claims Tribunal (in short RCT) Act, 1987 against order dated 18-11-98 made by the learned Railway Claims Tribunal in Application No. 106/96.

2. The appellant states that 360 bags of rice were booked from KPV (Kashipur) to Silchar under Invoice No. 135/896759 dated 10-7-93. It reached the destination on unusual delay and open delivery was taken. There was shortage of 9777 Kg. of rice and short/damage certificate to that effect was issued by the authority concerned. Appellant preferred a claim for compensation demanding Rs. 68439.00 @ Rs. 700.00 per quintal. A cheque of Rs. 40471.00 was sent to the appellant by Railways and he accepted it under protest reserving his right to further claim and presented such claim for another sum of Rs. 27968.00 later.

3. That in deciding the claim learned Railway Claims Tribunal allowed value @ Rs. 450.00 per quintal. That during the relevant period rate of Kamrup Chamber of Commerce was Rs. 580.00 to 620.00 per quintal but in a whimsical and arbitrary way learned Railway Claims Tribunal allowed rate of Rs. 450.00 per quintal. Hence this appeal.

4. I have heard both sides and perused the materials of LCR (Lower Court

records).

5. Learned Railway Claims Tribunal in assessing the quantum of compensation opined as follows :--

"..... .However the price of Rs. 7/- per kg; claimed by the applicant is considered on high side. No "beejuck" has been submitted by the applicant. We consider that Rs. 4.50 per kg. is reasonable cost of the consignment....."

No reason has been given to accept and justify the value of rice @ Rs. 450.00 per quintal. No doubt there is no law that claim would be allowed in its entirety. But then, if the claim of applicant is not legally or reasonably acceptable, it can be rejected with appropriate reasons but not arbitrarily as was done here.

6. In the result, the appeal is allowed. Impugned order is set aside. Case is sent back to the learned Railway Claims Tribunal for decision in accordance with law. It will be open for the respondents to agitate the question of any final discharge of liability in view of issuance of a cheque and acceptance by the appellant with protest."

7. Send down the LCR forthwith.