

(1999) 10 PAT CK 0078
In the Patna High Court
Case No : M.A. No"s. 23 to 27 of 1999

The Union of India (UOI)

APPELLANT

Vs

Bimal Kishore

RESPONDENT

Date of Decision : 14-10-1999

Acts Referred:

Railways Act, 1989 — Section 106, 97

Citation : (2002) 1 PLJR 83

Hon'ble Judges : Gurusharan Sharma, J

Bench : Single Bench

Advocate : Gautam Bose, for the Appellant; Uma Shankar, for the Respondent

Final Decision : Dismissed

Judgement

Gurusharan Sharma, J.—Heard Mr. Gautam Bose, counsel for the Appellant and Mr. Uma Shankar, counsel for the Respondent and perused the record of claim case filed by Respondent before Railway Claims Tribunal, Patna Bench and with consent of parties, these appeals (M.A. Nos. 23 to 27 of 1999) are disposed of by a common order.

2. Admittedly, bags of Iodised salt were booked from Phalodi/Nawa City (Rajasthan) Railway Station to Jamui (Bihar) Railway Station vide R.R. Nos. 140504 and 140510 dated 4.7.1997 and R.R. Nos. 047925, 047934, 047938 dated 15/16.9.1997. Loading was not supervised by the Railway staff. According to the claimant on delivery of those bags, there was shortage.

3. Application Nos. OC9800147, OC9800157, OC9800175, OC9800179 and OC9800182 were filed by the Respondent before Railway Claims Tribunal, Patna Bench for granting compensation on account of non-delivery of bags of Iodised salt. According to him, out of 1660, 1669, 784, 1160 and 777 bags booked, respectively 151, 200, 195, 159 and 173 bags of Iodised salt was found short. The Station Manager, Jamui, Railway Station granted certificates for actual number of bags delivered. A compensation of Rs. 70/- per bag was claimed.

Notice u/s 106 of the Railways Act, 1989 (hereinafter referred to as "the Act") was served in time before filing claim applications.

4. A perusal of records of the Tribunal shows that on 16.7.1998, the Presenting Officer of Eastern Railway appeared in the aforesaid five claim applications and urged for time to file written statement. The cases were adjourned to 21.7.1998. The Presenting Officer of Eastern Railway, Mr. J.R. Choudhary and the legal assistant, Mr. M.M.L. Srivastava were present on 21.7.1998 and also took part in hearing of the claim applications. However, neither any written statement was filed on behalf of Railways nor any prayer for further time to file written statement was made. In course of hearing, the Railway's representative only disputed the rate of compensation, which according to them was excessive. It appears that Tribunal considered this aspect of the matter and reduced the rate from Rs. 70/- to Rs. 50/- per bag. It appears that Railways did not challenge the number of bags booked, though loading was not supervised by its staff.

5. Mr. Bose, counsel for the Appellant referred to the provisions of Section 97 of the Act and submitted that the Railway-Administration was not responsible for any loss of any consignment carried at owner's risk rate, except upon proof that such loss was due to negligence or misconduct on its part or on the part of any of its servants. In my opinion, in absence of any pleading or evidence or denial of the claim in question by the Railways, the shortage as claimed by Respondent herein stood admitted. The Railway's representative, while participating in the hearing of claim applications even did not submit that there was no negligence or misconduct on the part of the Railways or its servants for non-delivery of the bags aforesaid.

6. I, therefore, do not find any reason to interfere with the impugned judgment. The aforesaid five appeals are, accordingly dismissed.