

**(1999) 07 AHC CK 0131**  
**In the Allahabad High Court**  
**Case No : C.M.W.P. No. 41064 of 1992**

|                                 |    |            |
|---------------------------------|----|------------|
| Union of India and another      | Vs | APPELLANT  |
| B.M. Electric Press and another |    | RESPONDENT |

**Date of Decision :** 30-07-1999

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Consumer Protection Act, 1986 — Section 12  
Railway Claims Tribunal Act, 1987 — Section 13, 13(1), 13(1A), 15, 2

**Citation :** (1999) 4 AWC 3090 : (1999) AWC 3090

**Hon'ble Judges :** Onkareshwar Bhatt, J;D.S. Sinha, J

**Bench :** Division Bench

**Advocate :** Lal Ji Sinha, for the Appellant;

**Final Decision :** Allowed

## Judgement

D.S. Sinha, J.—Heard Shri Lal Ji Sinha, learned counsel appearing for the petitioners. Despite being duly served, the respondents have not put in appearance to contest the petition.

2. The order dated 8th June. 1992 passed by the District Consumer Redressal Forum, Aligarh, the respondent No. 2, established under the Consumer Protection Act, 1986 (hereinafter called the Consumer Protection Act), purporting to allow the Claim Petition No. 323 of 1991, M/s. B. M. Electric Press. Aligarh v. Union of India and another, is under challenge in this petition under Article 226 of the Constitution of India.

3. Learned counsel of the petitioners contends that the impugned order is totally without jurisdiction in view of the provisions of Section 15 of the Railway Claims Tribunal Act, 1987. (hereinafter called the Railway Claims Tribunal Act).

4. On 30th May, 1989, M/s. Hindustan Paper Board Corporation -Ltd. booked with Northern Railway 383 bundles of papers from Panchgram Railway Station to Aligarh in favour of the respondent No. 1. During the course of delivery of the

goods, it was discovered that one bundle of papers was short and 20 bundles were damaged. This led the respondent No. 1 to file before the respondent No. 2 the Claim Petition No. 323 of 1991. u/s 12 of the Consumer Protection Act. 1986. In November, 1991, for loss and damages of the goods in question.

5. Upholding the claim of the respondent No. 1, the respondent No. 2 passed the impugned order dated 8th June, 1992 directing the petitioners to pay a sum of Rs. 7,849.50 paise together with 12% interest with effect from June. 1989, and Rs. 100 by way of costs.

6. Section 15 of the Railway Claims Tribunal Act. provides that on and from the appointed day. no Court or other authority shall have, or be entitled to, exercise any jurisdiction. powers or authority in relation, to the matters referred to in sub-sections (1) and (1A) of Section 13 of the Act.

7. The matters referred to in sub-section (1) of Section 13 of the Act. inter alia. cover the compensation for loss, destruction, damage, deterioration or non-delivery of animals or goods entrusted to a railway administration for carriage by railway.

8. Thus, on and from the appointed day. no Court or other authority had or is entitled to exercise any Jurisdiction, power or authority in relation to the claim for compensation for loss, destruction. damage, deterioration non-delivery of animals or goods entrusted to a railway administration for carriage by railway.

9. The "appointed day" has been defined in sub-section (b) of Section 2 of the Railway Claims Tribunal Act to mean the date with effect from which the Claims Tribunal is established u/s 3 of the Act, which ordains that the Central Government shall, by notification, establish a Claims Tribunal, to be known as the Railway Claims Tribunal, to exercise the jurisdiction, powers and authority conferred on it by or under the Act.

10. In exercise of powers conferred u/s 3 of the Railway Claims Tribunal Act. the Central Government Issued a notification dated 5th October, 1989, published in Gazette of India. Extra., Part II Section 3(ii), dated 5th October. 1989, P. 2, purporting to establish Railway Claims Tribunal with effect from the 8th day of November, 1989, and declaring the said date to be a "appointed day" within the meaning of clause (b) of Section 2 of the Railway Claims Tribunal Act.

11. In view of the establishment of the Railway Claims Tribunal with effect from 8th November, 1989, and declaration of that date to be the "appointed day", for the purpose of Section 15 of the Railway Claims Tribunal Act 8th November, 1989 is the "appointed day", and from that date jurisdiction of every Court or other authority In relation to the matters covered in sub-sections (1) and [1A] of Section 13 of the Act stands clearly excluded.

12. Thus, in November. 1991, when the respondent No. 1 had filed the complaint u/s 12 of the Consumer Protection Act. the District Consumer Redressal Forum. Aligarh. the respondent No. 2 had no jurisdiction to entertain the said complaint.

Likewise, on 8th June, 1992. the Forum did not have jurisdiction to pass the impugned order. Entire proceedings before the respondent No. 2 were totally without Jurisdiction, rendering the Impugned order void.

13. In the result, the petition succeeds and is allowed. The Impugned order dated 8th June, 1992, a photocopy whereof is Annexure-2 to the petition is quashed. There is no order as to costs.