# The Union of India and Others Vs M/s. Satya Sai Exports

**Court:** Bombay High Court (Nagpur Bench)

**Date of Decision:** Feb. 13, 2014

**Acts Referred:** Railway Claims Tribunal Act, 1987 - Section 16
Railways Act, 1989 - Section 103

**Hon'ble Judges:** S.B. Shukre, J

**Bench:** Single Bench

**Advocate:** N.P. Lambat, for the Appellant; Anand Parchure Advocate for Respondents 1 to 4, for the Respondent

**Final Decision:** Partly Allowed

## Judgement

S.B. Shukre, J.
This appeal is preferred against the judgment and Award passed on 20.12.2012 in Claim Application No. 113/OA-

1/RCT/NGP/2000 delivered by the Railway Claims Tribunal, Nagpur. It was the case of the respondent that he had booked a consignment of

shed antlers of Sambhar and Chital having weight of 240 kilogrammes under RR No. F 714075 dated 4.2.1998 from Anand Nagar (Uttar

Pradesh) to Tumsar Road. These goods were accepted by the railway administration for their transportation to Tumsar Road. They were loaded

on Baroni Express and at the time of their entrustment, the respondent had paid freight charges of Rs. 491/-. The goods, however, did not reach

their destination. The respondent tried to trace out the goods, but in vain. He, therefore, sent statutory notice to the railway administration claiming

compensation but that was of no effect. Ultimately, he filed an application u/s 16 of the Railway Claims Tribunal Act, 1987 claiming compensation

for the loss of the goods.

2. The railway administration repudiated the claim and submitted that the respondent had not declared the value of the goods under consignment

and, therefore, the railway administration was not liable to pay compensation as equivalent to the value of the goods. It was also submitted that no

percentage charges based on the declared value of the goods were paid. It was submitted by railway administration that the claim that was lodged

was for inflated and exaggerated amount.

3. The defence taken by the railway administration was rejected by the Tribunal, and it allowed the application and directed the railway

administration to pay compensation of Rs. 78,000/- together with interest to the respondent. It is against this judgment and Award that the present

appeal has been preferred by the appellants.

4. Upon hearing the learned counsel for the appellants and learned counsel for respondents 1 to 4, following points arise for my determination:

(i) Whether the compensation granted by the Tribunal, being not consistent with the provisions of Section 103 of the Railways Act, 1989 (for short

the Act) and The Railways (Extent of Monetary Liability and Prescription of Percentage Charge) Rules, 1990, (for short the Railways Rules) is

exaggerated and unjustified?

(ii) What should be the amount of compensation payable to the respondents?

5. Learned counsel for the appellants has invited my attention to the provisions of Section 103 of the Act, 1989 and submitted that when value of

the goods under consignment has not been declared at the time of entrustment of the goods for carriage to the railway administration, the extent of

liability of the railways for the loss or damage caused to the goods has to be calculated with reference to the weight of the goods entrusted for

carriage to the railway administration. He further submits that the railway receipt, which is at Ex. A-25, would clearly show that the value of the

goods was not declared by the respondent at the time when he handed over the goods for their transportation to the railway administration and,

therefore, provisions of Section 103 of the said Act as well as Rule 3 of The Railways Rules.

6. On perusal of the provisions of Section 103 of the said Act as well as Rule 3 of the Railways Rules, I find that the learned counsel for the

appellants is right in this behalf. Section 103 lays down that when value of the consignment has not been declared by the consignor at the time of

entrustment of the goods to the railway administration for their carriage, the amount of liability of the railway administration for the loss, destruction,

damage, deterioration or non-delivery of the consignment shall, in no case, exceed such amount as would be calculated with reference to the

weight of the consignment. Rule 3 (iii) of Railways Rules prescribes that when the consignment does not consist of any animal or baggage, the

amount of liability of the railway administration in respect of loss, damage, non-delivery etc. shall be calculated at Rs. 50/- per kilogrammes.

7. In the instant case, the value of the consignment was never disclosed at the time when the goods were entrusted to the railway administration for

their carriage. The railway receipt vide Ex. A-25 clearly shows such non-declaration of value of the consignment. Therefore, this is a case wherein

the amount of liability of Railway administration ought to have been determined and calculated with reference to the weight of the consignment.

Weight of the consignment admittedly was 240 kilogrammes and, therefore, as per provisions of Rule 3(iii) of Railways Rules, total amount of

compensation payable by the railway administration for non-delivery of consignment, which is not in dispute, would come to Rs. 12,000/- [240 x

50].

8. It is seen from the impugned judgment and Award that the Tribunal has misled itself in assuming on the basis of cash-memo vide Ex. A-26 that

the respondent had shown the value of the consignment as at Rs. 78,000/-. No doubt, the cash-memo vide Ex. A-26 does show that the value of

the goods was Rs. 78,591/-. But, the value of the goods or consignment as shown in the cash-memo or some bill issued by a Merchant or

Commission Agent is of no relevance for the purpose of determining the extent of the liability of the railway administration for the loss, damage,

destruction or non-delivery of the consignment. Sub-section (2) of Section 103 of the Act clearly lays down that the value of the consignment must

be declared by the consignor at the time of entrustment of the goods for carriage. Therefore, if there is some document showing value of the goods

or the consignment, on which reliance has been placed by the consignor or the claimant, such document cannot be considered as relevant for the

purposes of Section 103 of the said Act and Rule 3 of the Railways Rules unless and until that document has been shown and proved by the

claimant as the declaration of the value of the consignment at the time of entrustment. It is the value declared at a particular time, i.e. at the time of

entrustment which is relevant and not the value of the goods shown at the time of their purchase by the claimant. Therefore, the Tribunal ought not

to have placed any reliance upon the cash-memo vide Ex. A-26. Resultantly, the finding recorded by the Tribunal has become erroneous and

without any foundation in law. It must, therefore, be quashed and set aside. The direction regarding payment of costs of Rs. 5,329/- also cannot be

sustained as there is absolutely no evidence available on record justifying grant of such costs to the respondent.

9. In view of the above, I find that there is substance in the argument canvassed on behalf of the appellants as regards erroneous fixing of

compensation. I have already found that the compensation which ought to have been given to the respondent should be of Rs. 12,000/-. Both the

points are answered in terms that the compensation granted by the Tribunal was on higher side and it ought to have been at Rs. 12,000/- and the

appeal deserves to be allowed partly. The appeal is partly allowed with proportionate costs and the order of the Tribunal granting compensation of

Rs. 78,000/- together with costs of Rs. 5329/- is hereby quashed and set aside, and it is substituted by the direction that the appellants shall pay to

the respondent an amount of Rs. 12,000/- with interest at the rate of 6% per annum from the date of application till the final payment.