

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

138

FAO-1539-1992**Reserved on : 12.03.2026****Pronounced on : 29.05.2026****Uploaded on : 01.06.2026**

Whether only operative part of the judgment is pronounced? *No*

Whether full judgment is pronounced? *Yes*

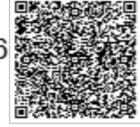
The Oriental Insurance Co. Ltd.**..... Appellant****versus****Union of India****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. R.C. Gupta, Advocate
for the appellant.

Mr. Harneet Singh Oberoi, Advocate (through V.C.) and
Ms. Anmolpreet Kaur, Advocate
for the respondent.

PANKAJ JAIN, J.

1. Insurance company is in appeal aggrieved of the award passed by Railway Claims Tribunal, Chandigarh Bench whereby the claim application filed by the insurance company seeking compensation on account of deficiency in the goods consigned for carriage stands rejected.
2. As per the claim application, M/s. World Wide Traders, Lahore (Pakistan) dispatched 106 bags of Copper Scrap vide Railway Receipt No.00124 dated 04.05.1989.
3. When the consignment was unloaded at Amritsar, it was discovered that out of 106 bags, 09 bags were missing. 7 to 8 bags were found open. On weighing, goods were found short by 1104 kg. Shortage certificate was issued by railway authorities on 31.05.1990.

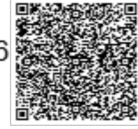


Consignment was insured. Thus, the applicant-appellant paid Rs.36,732/- to respondent No.2, who executed letter of subrogation and SPA in favour of the appellant to claim damages from railways. The insurance company filed claim with the railways, which was rejected. Claimant thus approached RCT seeking compensation.

4. The railways contested the claim. As per the written statement, the forwarding station at Lahore sealed the wagons in the presence of the applicant. The consignment arrived in the same wagon in which it was dispatched. Seals were intact. There is no proof that the loss or damage arose on the railway due to any act by the railway administration. Thus, the railways administration is not liable to indemnify the claimant.

5. Tribunal relied upon Section 76(E) of the Indian Railways Act, 1890 to hold that since the loss occurred in the territory of Pakistan, railways cannot be held liable.

6. Mr. Gupta, counsel for the appellant has assailed the findings recorded by the Tribunal to submit that the Tribunal erred in relying upon Section 76(E) of the 1890 Act. As per Section 93 of the 1989 Act, even in those cases where loss, destruction, damage, deterioration or non-delivery is proved under the exceptions carved out under the provision, the railway administration shall not be relieved of its responsibility, unless it is proved that it has used reasonable foresight and care in the carriage of the goods. He submits that the onus was upon the railways to prove that the consignment was lost despite the railways having used reasonable foresight and care in the carriage of the same.



7. *Per contra*, counsel for the respondent-railways submit that Section 93 of the 1989 Act is not applicable to the present case. The issue has been rightly dealt with by the Tribunal relying upon Section 76(E) which deals with the responsibility of railway administration, where the traffic passes over railways in India from a point outside India. Tribunal having rightly recorded reasoned findings to reject the claim of the appellant, present appeal deserves to be dismissed.

8. I have heard counsel for the parties and have carefully gone through the records of the case.

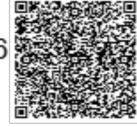
9 Facts are not much in dispute. It is not in dispute that consignment containing 106 bags of copper scrap were dispatched by consignor from Lahore vide Railway Receipt No.00124 dated 04.05.1989. When the consignment was reached Amritsar, 09 bags were found missing. Some of the bags were found open. Shortage certificate was issued by railway authorities, Amritsar on 31.05.1990 as per which, there was shortage of 1104 bags.

10. Since the consignment was booked on 04.05.1989 and shortage certificate was issued on 31.05.1990, Railways Act, 1989 has no applicability as the same came into effect from 01.07.1990. The issue in hand is governed by Indian Railways Act, 1989.

11. Chapter VII of 1890 Act deals with responsibility of railway administration as carriers.

Section 76(E) of 1989 reads as under:-

“76 E. Responsibility of railway administration in case of traffic passing over railways in India and railways in foreign countries. - Where in the course of carriage of animals or goods from a place in India to a place outside India or from a place outside India to place in India or from one place outside India to another place outside India or from one place in India



to another place in India over any territory outside India, the animals or goods are carried over the railway of a railway administration, the railway administration shall not be responsible under any of the provisions of this Chapter for loss, destruction, damage or deterioration of the animals or goods from whatever cause arising, unless it is proved by the owner of the animals or goods that such loss, destruction, damage or deterioration arose on the railway of the railway administration.”

12. Thus, where the goods are being carried from a place outside India to a place in India by the railway, the administration can be held responsible under the provisions of Chapter VII of 1890 Act for loss, destruction, damage or deterioration of goods only if it is proved by the owner of the goods that such loss, destruction, damage or deterioration arose on the railway of the railway administration. Thus, it was incumbent upon the appellant to prove that the loss occurred on the railway of Indian Railways. Once wagon was received by Indian Railways in Indian Territory, it was incumbent upon the railways to check whether original wagon seals are intact or not. Counsel for the appellant has not disputed the findings recorded by the Tribunal that original wagon seals were produced.

13. In view thereof, this Court finds no reason to interfere in the findings recorded by the Tribunal rejecting the claim of the appellant holding that the appellant failed to prove that the loss was caused on the railways administered by Indian Railways.

14. Finding no merit in the present appeal, the same is ordered to be dismissed.

(PANKAJ JAIN)
JUDGE

29.05.2026

Dinesh

Whether speaking/reasoned :

Yes

Whether Reportable :

No