

**FAO No.1973 of 2001 (O&M)**

2025-PHHC-051179



**FAO No.1905 of 2001 (O&M)**

2025-PHHC-051181



**FAO No.3413 of 2001 (O&M)**

2025-PHHC-051184



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

**Date of Decision : 03.04.2025**

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**CM No.1683-CII of 2025 in/and  
FAO No.1973 of 2001 (O&M)**

Union of India

.....Appellant

Versus

Steel Authority of India Limited

.....Respondent

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**FAO No.1905 of 2001 (O&M)**

Union of India

.....Appellant

Versus

Steel Authority of India Limited

.....Respondent

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**FAO No.3413 of 2001 (O&M)**

Union of India

.....Appellant

Versus

Steel Authority of India Limited

.....Respondent

**CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present : Ms. Bhawna Thakur, Advocate  
for the applicant/appellant  
in FAO No.1973-2001 (through V.C.).

Mr. Somesh Gupta, Senior Panel Counsel  
for the appellant-UI  
in FAO Nos.1905 & 3413 of 2001.

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Mr. Sandeep Punchhi, Advocate  
for the respondent(s).

**PANKAJ JAIN, J.(Oral)**

**CM-1683-CII-2025 in**  
**FAO No.1973 of 2001**

This is an application filed under Order XLI Rule 19 r/w Section 151 CPC seeking restoration of FAO No.1973 of 2001 which was dismissed vide order dated 13.12.2024 for want of prosecution.

For the reasons recorded in the application, the same is allowed.

Main appeal is restored to its original number and taken on board today itself.

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Counsels are *ad idem* that the issue involved in the instant appeals is fully covered by ratio of judgment passed by this Court in ***FAO No.1177 of 1996 and other connected appeals***, dated 16.01.2025 titled as ***'Punjab Small Ind. & Exprt. Corp., Chandigarh vs. Union of India etc.'*** wherein this Court after referring to Section 79, Section 93, Section 94, Section 97, Section 99, Section 103, Section 106 and Section 110 of the Railways Act, observed as under:

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*“11. The finding recorded by the Tribunal w.r.t. non-compliance of Section 106 also cannot be sustained. In terms of Section 106(2) of the Railways Act, any information demanded or enquiry made in writing from, or any complaint made in writing to any of the railway administrations to which the goods were entrusted for carriage or was administrating the destination station, partakes the character of a notice or claim.*

*12. In para No.7(a) of the claim application, the claimant claimed that the claim was filed with the Railways. However, the same was responded to by the Railways only asserting that since the claim is not traceable thus lodging thereof is denied. Apart therefrom, the claimant appended copy of the notice sent to Railways by way of registered post on 11.12.1991. The pleading was supported by affidavit of Regional Manager Legal of the Corporation. No evidence was adduced to rebut the same.*

*13. In view of above, the finding w.r.t. non-compliance of provision as contained under Section 106 of the Railways Act also needs to be reversed.*

*14. Coming on to the merits of the case, Railways does not dispute that original railway receipt was produced by the claimant. It is also not disputed that the claimant made request for reweighment of the consignment.*

*15. In para No.6 of the written statement, it has been claimed by the Railway Administration that the request of the party was unjustified and uncalled for and was rightly and correctly turned down by the competent authority. It needs to be noticed that Section 79 of the Railways Act deals with weighment of consignment on request of the consignee or endorsee. The statue itself facilitates allowing the request made by consignee though subject to such conditions and on payment of charges as may be prescribed. The provision itself provides for where the weighment has to be disallowed. The other plea raised by counsel for the*

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*railway administration w.r.t. Goods having been loaded at a siding not belonging to the railway administration also needs to be noticed and rejected.*

16. *Section 94(1) needs to be perused carefully.*

17. *Railway Administration will not be responsible for any loss, destruction, damage or deterioration of goods loaded at a siding not belonging to the railway administration only till the wagon containing the goods has been placed at the specified point of interchange of wagons between the siding and the railway administration. The only exception is where a railway servant authorized in this behalf has not been informed in writing accordingly by the owner of the siding. Admittedly, the wagon loaded in the siding belonging to respondent No.2 from whom appellant purchased the consignment was not only interchanged at the specified point but the same was carried by the railways up to the destination. In terms of Section 93, railway administration is generally responsible as carrier of goods and is required to account for any pilferage/loss. Even though in terms of Section 99 wherever the consignment is at owner's risk, the railway administration is not responsible as a bailee. However, by declining the request of the consignee for reweighment, the railway administration has not helped its cause and cannot escape its liability merely by claiming that the consignment was at owner's risk. Admittedly, railway administration charged RR as per the bill. Apprehending loss in transit, consignee requested for reweighment. After railway administration declined the request, consignee was left with no other choice but to appoint independent surveyor to get the consignment reweighed. Tribunal erred in rejecting the surveyor's report merely on the ground that three gate passes were missing. Gate passes were issued by railway administration and railway administration could have well proved the details thereof, in case they were disputing the same. There*

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*being no effort made at the end of Railways Department, this Court finds that the Tribunal erred in rejecting the surveyor's report.*

*18. Keeping in view the aforesaid facts, the findings recorded by the Tribunal cannot be sustained and are hereby set aside. The appellant is held entitled for monetary compensation in terms of the losses suffered on account of pilferage during transit.*

*19. As a sequel of the discussion held hereinabove, the present appeals are allowed.”*

2. In view of aforesaid ratio, the present appeals preferred by Union of India, are ordered to be dismissed.
3. Pending application(s), if any shall also stand disposed off.
4. A copy of this order be kept on the files of other connected appeals.

**April 03, 2025**

**Dpr**

**(Pankaj Jain)**

**Judge**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No