

IN THE PUNJAB & HARYANA HIGH COURT
AT CHANDIGARH

Date of Decision: 12.08.2015

RSA No.1742 of 1991

Akash Financiers Pvt. Ltd.

...Appellant

Versus

M/s Radha Krishan Brij Mohan & others

...Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr. Baljinder Singh, Advocate, for
Mr. S.S.Narula, Advocate, for the appellant.

HEMANT GUPTA, J. (ORAL)

Plaintiff is in second appeal aggrieved against the judgment and decree dated 23.04.1991 passed by the learned first Appellate Court, whereby future interest at the rate of 18% granted by the trial Court vide judgment and decree dated 02.09.1987 was reduced to 6% per annum.

The plaintiff-appellant filed a suit for recovery of Rs.31,452/- alleging therein that defendant No.1 has taken a loan of Rs.30,000/- on 02.03.1987 and agreed to repay the same along with interest at the rate of 18% per annum. The said suit was decreed by the learned trial Court along with pendente lite and future interest at the rate of 18% per annum. However, in appeal, the learned first Appellate Court reduced the future rate of interest to 6% per annum.

The Constitutional Bench of Hon'ble Supreme Court in **Central Bank of India Vs. Ravindra & others AIR 2001 SC 3095**, has examined the parameters for granting of future rate of interest. The Bench held that

granting of future interest is in the discretion of the Court. It was observed as under:

“55. xxx xxx xxx

(8) Award of interest pendente lite and post-decree is discretionary with the court as it is essentially governed by Section 34 CPC dehors the contract between the parties. In a given case if the court finds that in the principal sum adjudged on the date of the suit the component of interest is disproportionate with the component of the principal sum actually advanced the court may exercise its discretion in awarding interest pendente lite and post-decree interest at a lower rate or may even decline awarding such interest. The discretion shall be exercised fairly, judiciously and for reasons and not in an arbitrary or fanciful manner.”

In view of the above, the discretion exercised by the learned first Appellate Court cannot be said to be unjustified. I do not find that there is any patent illegality or irregularity in the findings recorded by the learned first Appellate Court or any substantial question of law arises for consideration in the second appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

12.08.2015
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