

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

R.S.A No.3908 of 2015

Date of decision : 06.05.2016

Bhagwanti (since deceased) through LRs.

..... Appellants

Versus

Gursewak Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Sunny K. Singla, Advocate
for the appellant.

DARSHAN SINGH,J

The present appeal has been preferred by appellant-plaintiff against the judgment and decree dated 09.03.2015 passed by learned District Judge, Patiala, vide which the appeal filed by respondent-defendant against the judgment and decree dated 08.07.2014 passed by the learned Civil Judge (Junior Division), Nabha, has been dismissed with modification qua the rate of interest.

2. Deceased-plaintiff Bhagwanti Devi has filed the suit for recovery of Rs. 5,85,462/- against respondent-defendant Gursewak Singh on the allegations that on 02.05.2004 and 06.06.2004, respondent-defendant borrowed a sum of Rs. 2 lac and Rs. 2,15,000/- respectively in cash from the plaintiff vide pronote and receipt dated 02.05.2004 and 06.06.2004 respectively. The said amount was advanced as loan at interest @ 1.56 % per month.

3. The said suit filed by the deceased-plaintiff was decreed by the learned trial Court vide judgment and decree dated 08.07.2014. A decree for recovery of Rs. 4,15,000/- along with interest @ 1.56 % per

month on the principal amount from the date of advancement of the loan till the date of decree and future interest @ 6 % per annum on the principal amount was passed.

4. Defendant-respondent aggrieved with the aforesaid judgment and decree preferred the appeal. His appeal has been dismissed by the learned First Appellate Court, however, with modification in the rate of interest. The plaintiff-appellant was awarded the interest at the rate of 9 % per annum on the principal sum of Rs. 4,15,000/- from the date of pronote and receipt till the date of decree and the rate of future interest was not interfered with.

5. The present appeal has been preferred by the appellant/legal representatives of deceased-plaintiff to assail the modification in the rate of interest by the learned First Appellate Court.

6. I have heard Mr. Sunny K. Singla, Advocate, learned counsel for the appellant and have meticulously gone through paper book.

7. Initiating the arguments, learned counsel for the appellant contended that the defendant-respondent has agreed to pay the interest @ 1.56 % per month. The learned trial Court has rightly awarded the interest at that rate. But, the learned First Appellate Court has reduced the rate of interest without any reason. Thus, he contended that the modification in the decree by the learned First Appellate Court was not warranted and appellant should have been awarded the interest @ 1.56 % per month i.e. the agreed rate of interest.

8. I have duly considered the aforesaid contentions.

9. The learned trial Court, no doubt has awarded the interest to

the appellant-plaintiff @ 1.56 % per month from the date of advancement of the loan till the date of decree. But, in the impugned judgment and decree, the said rate of interest has been reduced and the plaintiff-appellant has been awarded the interest @ 9 % per annum on the principal amount from the date of advancement of the loan till the date of decree. The learned First Appellate Court has mentioned that the rate of interest i.e. 1.56 % per month is excessive and the same has been reduced to 9 % per annum from the date of loan till the date of decree. This fact is not disputed that it was not a commercial transaction and the learned First Appellate Court considering the rate of interest claimed by the appellant-plaintiff to be excessive has reduced the rate of interest. Thus, no fault can be found with the said discretion exercised by the learned First Appellate Court.

10. Consequently, the present appeal being devoid of merits, is hereby dismissed with no orders as to costs.

May 06, 2016

s.khan

**(DARSHAN SINGH)
JUDGE**