

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

**RSA No.6248 of 2014 (O&M)
Decided on: 21.04.2016**

Raghbir

....Appellant

Versus

Mohan Lal and another

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Ashwani Kumar Bura, Advocate
for the appellant.

Mr. Deepak Jindal, Advocate
for the respondents.

REKHA MITTAL, J.

The present appeal has been preferred by the unsuccessful defendant against whom a decree for recovery of Rs.7,06,500/- along with future and *pendente lite* interest @ 18% per annum was passed by the learned trial Court and the findings recorded by the trial Court were affirmed in appeal by the Additional District Judge, Kaithal.

The sole submission made by counsel for the appellant is that the Courts below have committed a gross error rather illegality in awarding future interest @ 18% per annum, in clear violation of the provision of Section 34 of the Code of the Civil Procedure (in short 'CPC'). It is prayed that the judgments and decrees passed by the Courts below may be modified by awarding future interest @ 6% per annum when otherwise the appellant is a poor farmer and a huge liability has been wrongly fastened upon him.

Counsel for the respondents has not seriously contested

plea of the appellant in regard to reduction in rate of interest from the date of decree till realization but it was argued that as the appellant had taken the loan for taking land on lease, the transaction in question is a commercial one and thus, the appellant is liable to pay interest @ 18% per annum as per usage and custom in the local market.

I have heard counsel for the parties and perused the records.

The substantial questions of law that arise for consideration are:-

- 1. Whether the findings of the Courts below awarding interest on the consolidated sum (principal + interest) are legal?*
- 2. Whether the Courts have rightly allowed future interest @ 18% per annum in the circumstances of the present case?*

There is no denial by counsel for the respondents/plaintiffs that suit was filed for recovery of a sum of Rs.4,30,000/- advanced to the appellant/defendant on 12.06.2003 with interest @ 18% per annum, making a total sum of Rs.7,06,5000/- as on the date of filing of the suit. Counsel for the respondents is fair enough to concede that *pendente lite* and future interest would be payable only on the principal amount and not on the amount of interest that became payable till filing of the suit. In this view of the matter, the judgments and decrees passed by the Courts below are liable to be modified to the extent that *pendente lite* and future interest shall be payable on the principal amount of Rs.4,30,000/- though the appellant shall be liable to pay the amount of

interest accrued upto filing of the suit.

The second question in regard to the rate at which the interest is payable for future is to be examined in the light of controversy as to whether the loan in question can be said to be a commercial transaction. Admittedly, the appellant is a customer at the commission agency business carried on by M/s. Mohan Lal Pankaj, Commission Agents Old Anaj Mandi, Kaithal, a proprietorship concern of Sh. Mohan Lal son of Sh. Shambhu Dayal. As per plea of the respondents, the appellant borrowed a sum of Rs.4,30,000/- on 12.06.2003 on the pretext that he needed the money for taking land on lease. Keeping in view the nature of transaction coupled with there being no serious contest to the prayer of the appellant for reduction in rate of interest, interest in the circumstances of the present case is payable @ 6% per annum from the date of decree till realization and the same shall be payable on the principal amount of Rs.4,30,000/-. It is clarified that liability of the appellant to pay interest of Rs.2,76,500/- till filing of the suit and *pendente lite* interest @ 18% per annum on the principal amount of Rs.4,30,000/- shall remain intact.

For the foregoing reasons, the appeal stands disposed of by modification in the aforesaid terms, leaving the parties to bear their own costs.

21.04.2016
yakub

(REKHA MITTAL)
JUDGE