

275 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CR No. 800 of 2004 (O&M)
DECIDED ON: MARCH 10, 2017

M/S INDIAN GAUR

....PETITIONER

VERSUS

UNITED INDIA INSURANCE

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Mayank Aggarwal, Advocate for
 Mr. Varun Issar, Advocate
 for the petitioner.

 Mr. D.P. Gupta, Advocate
 for the respondent.

JASPAL SINGH, J

By virtue of instant revision preferred under Article 227 of the Constitution of India, petitioner has sought the setting aside of order dated November 19, 2003 whereby, learned trial Court has dismissed an execution application being fully satisfied in respect of future interest granted by it.

For the proper appreciation of the matter in controversy between the parties, it would be desirable to refer some facts.

Petitioner preferred Civil Suit No. 129, dated 02.01.1987 titled as M/s Indian Gaur Gum Pvt. Ltd vs. United India Insurance Co. Ltd for recovery on account of loss caused to it in a fire incidence occurred on the intervening night of 30/31.12.1985. The said suit was decreed vide judgment and decree dated January 17, 1996 and the relief granting to the petitioner reads as under:

“it is held that the plaintiff has successfully proved that is entitled to recover the interest on the delayed payment of claim by the defendant No.1 as held in issue No. 7. Accordingly, in stead of passing a preliminary decree, a final decree is passed with cost against the defendant No.1 and in favour of plaintiff to the effect that the defendant No.1 is directed to pay a sum of ₹8,62,000/- within three months of this judgment. However, this decree of recovery will be subject to the condition that the plaintiff will affix court fees on this amount of ₹8,62,000/- within two months of this judgment, failing which the suit of plaintiff will stands dismissed. It is further made clear that if after the payment of court fees the defendant N.1 will not pay the decretal amount within the prescribed three months, the plaintiff will be entitled to recover the same with future interest @ 16% per annum from the date of decree till its realization.”

Aggrieved against the judgment and decree dated January 17, 1996, petitioner has preferred an appeal bearing Civil Appeal No. 38-CA of 1996/1999 titled as M/s Indian Gaur Gum Pvt. Ltd. vs. United India Insurance Co. Ltd & another, which was disposed of vide judgment and decree(s) dated February 01, 2000. Still the petitioner-plaintiff did not feel satisfied and preferred Regular Second Appeal, which was partly accepted vide judgment dated July 06, 2001 and the decree was drawn on July 06, 2001, which reads as under:

“It is ordered the appeal be partly accepted and the decree of District Judge, Hisar dated February 01, 2000 affirming with no order as to costs that of Civil Judge (Jr. Division), Siwani at Hisar, dated 17th January 1996 (as described overleaf) be and the same is hereby modified and it is directed that the plaintiff would be entitled to receive interest at the rate of 12% per annum from 1st of April 1986 to 8th December, 1986 on the amount of the settle claim

i.e. ₹64,65,041/-”

While assailing the impugned order, it has been contended by learned counsel for the petitioner that in addition to the interest already paid by the respondent-insurance company, petitioner is also entitled to interest for the period January 17, 1996 till October 09, 2000. The executing Court has wrongly concluded and misinterpreted the judgment and decree dated July 06, 2001 passed by this Court. In fact, this Court has not touched the findings recorded on issue No.14 in respect of future interest, which is evident from the wording of decree itself. Similarly, it is also evident from the judgment of learned District Judge that no contention was raised with regard to issue No.14. Arguments were addressed only in respect of findings recorded on issue Nos. 7 and 10 by the Insurance Company.

On the other hand learned counsel for respondent has supported the impugned order and has asserted that the petitioner is not entitled to the interest for the period from January 17, 1996 till October 09, 2000, as it has already been declined by the Courts upto this Court.

After bestowing due consideration to the submissions made by learned counsel for the parties and perusal of judgments and decrees referred to above, this Court is satisfied that so far as the question with regard to the entitlement of petitioner of the interest for the period January 17, 1996 till October 09, 2000 is concerned, it was never agitated or raised before this Court and after hearing the parties at length, it was ordered by this Court that petitioner would be entitled to receive interest @ 12% p.a. from April 01, 1986 to December 08, 1986 that too, on the amount of settled claimed i.e. ₹64,65,041/- totalling ₹05,35,624/- and the said amount of interest has already

been paid by the judgment debtor.

Thus, there is no infirmity, illegality or perversity in the impugned order dated November 19, 2003. As such it does not call for any interference of this Court.

In the light of what has been discussed above, instant revision is dismissed being devoid of merits with not order as to costs.

MARCH 10, 2017
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(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>