* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **RFA No. 231/2013**

% ***21st February, 2019***

M/S CIMMCO LIMITED ..... Appellant

Through: Sh. Ashish Verma, Advocate.

versus

PRAMOD KRISHNA AGRAWAL ..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908 (CPC) is filed by the appellant/defendant impugning the Judgment of the trial court dated 11.01.2013 by which the trial court has decreed the suit filed by the respondent/plaintiff for an amount of Rs. 11,48,532/- along with *pendente lite* and future interest at 12% per annum.

2. Out of the suit amount of Rs. 11,48,532/-, the principal amount is only a sum of Rs. 3,48,870/-, and the same becomes clear

from para 5 of the impugned judgment. Therefore, the difference of Rs. 11,48,532/- and Rs. 3,48,870/- is the claim towards pre-suit interest, which is a huge amount of Rs. 7,99,662/-, as compared to the principal amount of Rs. 3,48,870/-. The rate of interest as per the respondent/plaintiff works out to be approximately 12% per annum, but the Ld. counsel for the appellant/defendant rightly points out that as per calculation, the rate of interest cannot be 12% per annum, and if the rate of interest was 12% per annum then this difference of amount could not be Rs. 7,99,662/- but a lower amount.

3. The Ld. counsel for the appellant/defendant argues that since there is consistent fall in the rate of interest, the Hon'ble Supreme Court has now mandated that lower rates of interest be granted and therefore the pre-suit and also the *pendente lite* and future interest is liable to be reduced by this Court. Reliance is placed upon the judgments in the cases of ***Rajendra Construction Co. v. Maharashtra Housing & Area Development Authority and others, 2005 (6) SCC 678, McDermott International Inc. v. Burn Standard Co. Ltd. and others, 2006 (11) SCC 181, Rajasthan State Road Transport Corporation v. Indag Rubber Ltd., (2006) 7 SCC 700,***

Krishna Bhagya Jala Nigam Ltd. v. G.Harischandra, 2007 (2) SCC 720 & State of Rajasthan v. Ferro Concrete Construction Pvt. Ltd (2009) 3 Arb. LR 140 (SC).

4. In sum and substance, the argument urged on behalf of the appellant/defendant in the present case is that the appellant/defendant is ready to pay the principal amount of Rs. 3,48,870/- along with a reasonable rate of interest, and that the rate of interest must be awarded consistently at not more than 7½ % per annum simple on the principal amount of Rs. 3,48,870/-.

5. In view of the judgments relied upon by the appellant/defendant, this appeal is allowed and the impugned judgment and decree is modified whereby the suit of the respondent/plaintiff will only stand decreed for a sum of Rs. 3,48,870/- alongwith interest at 7½ % per annum simple from 08.12.2000 and till the filing of the suit, and thereafter till payment/deposit at the same rate on the aforesaid principal amount of Rs. 3,48,870/-.

6. The appellant/defendant pursuant to the orders passed in this appeal had deposited a sum of Rs. 7,50,000/- in this Court, and this amount is lying in an FDR. The Registry will now calculate the amount payable to the respondent/plaintiff in terms of the present judgment, and only if and in case the amount lying deposited in this Court is found to be more than the amount payable to the respondent/plaintiff in terms of the present judgment, the balance amount will then be refunded to the appellant/defendant. However, the Registry before calculating the amount due and payable to the appellant/defendant will make detailed calculations as to what is the amount lying in the FDR as on date, and that what amount would be payable to the respondent/plaintiff in terms of the present judgment.

7. In view of the aforesaid discussion, the appeal is accordingly partially allowed, leaving the parties to bear their own costs.

FEBRUARY 21, 2019/ib **VALMIKI J. MEHTA, J**