

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-6214-C-2023 in/&
RSA-629-2019 (O&M)
Date of Decision :01.06.2023

Punjab State through District Collector, Mansa
and others

...Appellants

Versus

Sikander Pal Singh (deceased) through LRs
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurpreet Singh, Addl. A.G. Punjab
for the appellant-State.

Mr. J.P.S Sidhu, Advocate for the respondents.

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Harsimran Singh Sethi, J. (Oral)

CM-6214-C-2023

Present application has been filed for listing the main regular
second appeal at an early actual date of hearing.

Notice of the application to the counsel opposite.

Mr. Gurpreet Singh, Addl. A.G. Punjab accepts notice on behalf
of the appellant-State and raises no objection for the grant of prayer as made
in the present application.

Keeping in view the averments made in the application, which
are duly supported by an affidavit, application is allowed.

On the joint request of the learned counsel for the parties, main
appeal is taken up for hearing today itself.

RSA-629-2020

1. Present regular second appeal has been filed against the concurrent findings recorded by the Courts below by which, the suit filed by the respondent-plaintiff for the release of the benefits in respect of the service rendered by one Sikander Pal Singh, who was working as Head Constable in the Punjab police along with interest, was allowed.

2. The parties have conceded the factum that except withholding of a sum of Rs.2,76,400/- from the gratuity of the respondent-plaintiff, the remaining benefits have already been released to the respondent-plaintiff. Further, it has already come on record that the amount so deducted, has been deducted so as to make good the amount of advance, which Sikander Pal Singh has taken as house building loan from the appellants.

3. Learned counsel for the appellants submits that once there was a house building loan taken by Sikander Pal Singh, he was liable to return the same and as a sum of Rs.2,76,400/- was pending against him, the same was deducted from his gratuity.

4. Learned counsel for the respondent-plaintiff on the other hand submits that it has already come on record that only a sum of Rs.62,400/- was remaining to be paid out of the principal loan amount taken by the respondent-plaintiff whereas Rs.2,76,400/- has been deducted from the gratuity by the appellants was by adding interest on the said amount of Rs.62,400/- and that too after the death of the employee concerned. Learned counsel for the respondent-plaintiff further submits that as per the instructions qua the recovery of the house loan, in case an employee dies, the advance given is to be waived off, which benefit has not been extended to the widow of the employee.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. The only argument raised by the learned counsel for the appellants is that the amount of advance taken as house loan by an employee is liable to be made good even after the death of the employee concerned and as the department has come to the conclusion that a sum of Rs.2,76,400/- was to be recovered from the respondent-plaintiff, the said amount has rightly been recovered from the gratuity of the respondent-plaintiff.

7. On being asked as to whether a sum of Rs.2,76,400/- was required to be paid out of the principal amount, learned counsel for the appellants submits that the total amount taken as house loan by the respondent-plaintiff was Rs.3,60,000/-, out of which a sum of Rs.2,97,600/- have already been recovered from the deceased employee from his pay up to the date he was alive and a sum of Rs.62,400/- which was to be paid back but as the said amount was not paid back, interest has been imposed upon the said amount of Rs.62,400/- so as to make a sum of Rs.2,76,400/-, which was recovered from the gratuity of the respondent-plaintiff.

8. The said submission of the learned counsel clearly go on to show that only a sum of Rs.62,400/- was required to be paid by the respondent-plaintiff out of the principal amount. Nothing has come on record that whether after the death of an employee, interest on the amount due can be claimed from the retiral benefits of a deceased employee. In the absence of any document brought on record to support the claim of interest on the principal amount after the death of an employee concerned, the claim raised by the appellants so as to recover a sum of Rs.2,76,400/- is without

any valid justification.

9. Further, learned counsel for the appellants concedes the fact that as per the instructions issued by the Government of Punjab, which are already on record, after the death of an employee, pending loan amount is to be waived off. That being so, even a sum of Rs.62,400/- which was yet to be paid out of the principal amount was required to be waived off whereas, without considering those instructions, a sum of Rs,2,76,400/- has been deducted from the gratuity of the Sikander Pal Singh. Said action of the appellants is not supported by any valid justification or rules governing the service on the said aspect.

10. Keeping in view the above, no infirmity can be found in the judgments and decrees of the Courts below so as to call any interference by this Court.

11. At this stage, learned counsel for the appellants submits that the Courts below have granted the interest @ 18% per annum on the amount to be refunded which is exorbitant keeping in view the provisions of law and same needs to be modified.

12. Though, in order to compensate an employee for the prejudice caused, the Courts are perfectly within its jurisdiction to grant the interest but while granting the interest at a particular rate, the same has to be supported by the reasons. In the present case, no reason has come forward for granting the interest @ 18% per annum by the Courts below. In the absence of any valid justification given to support the decision, grant of interest from @ 18% per annum, cannot be accepted.

13. Even otherwise, as per Section 34 of the CPC, the interest can be granted on the bank rate not exceeding 6% per annum. Learned counsel

for the respondent has not been able to controvert that keeping in view the Section 34 of the CPC, the interest cannot be granted beyond 6% per annum, hence, the judgments and decrees of the Courts below are modified to the extent that though, the same is upheld qua the grant of interest but the respondent-plaintiff will be entitled for interest @ 6% per annum instead of 18% per annum on the amount deducted from his gratuity from the date the same became due till the actual payment is made.

14. Present regular second appeal is disposed of in above terms.

June 01, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No