IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(209) **RSA-3531-1997 (O&M)**
Date of Decision : 15.04.2024

State of Punjab and others

...Appellants

Versus

Bhag Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rohit Ahuja, Deputy Advocate General, Punjab
for the appellants.

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Harsimran Singh Sethi J. (Oral)

1. In the present appeal, the challenge is to the judgment and decree of the lower appellate court vide order dated 22.05.1997 by which the judgment and decree of the trial court vide order dated 31.10.1995 was set-aside and the suit filed by the respondent-plaintiff, namely, Bhag Singh was allowed.

2. The only argument raised by the learned counsel for the appellant is that the rate of interest granted to the respondent-plaintiff was contrary to Section 34 of the CPC, hence, the rate of interest is liable to be reduced accordingly.

3. Despite information given to the learned counsel appearing on behalf of the respondent, no one has appeared.

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4. The interest on the arrears can only be granted keeping in view the provisions of Section 34 of the CPC. Section 34 of the CPC is reproduced as under :-

> ***"Section 34. Interest.***
>
> *(1) Where and in so far as a decree is for the payment of money, the Court may, in the decree, order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, 1 [with further interest at such rate not exceeding six per cent. per annum as the Court deems reasonable on such principal sum], from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit :*
>
> *2[Provided that where the liability in relation to the sum so adjudged had arisen out of a commercial transaction, the rate of such further interest may exceed six per cent. per annum, but shall not exceed the contractual rate of interest or where there is no contractual rate, the rate at which moneys are lent or advanced by nationalised banks in relation to commercial transactions.*
>
> *Explanation I.--In this Sub-section, "nationalised bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970).*

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Explanation II.-- For the purposes of this section, a transaction is a commercial transaction, if it is connected with the industry, trade or business of the party incurring the liability.]

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(2) Where such a decree is silent with respect to the payment of further interest 3[on such principal sum] from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefore shall not lie."

5. Nothing has been brought to the notice of this court that the bank rate was 12% per annum at the relevant time. In the absence of any such evidence brought on record, the interest could not have been granted @ 12% per annum, hence, the maximum interest, which can be granted under Section 34 of the CPC i.e. 6% per annum should have been extended.

6. Keeping in view the above, the judgment and decree of the lower appellate court dated 22.05.1997 is modified to the extent that the interest, which the respondent-plaintiff will get on arrears is @ 6% instead of 12% as granted by the lower appellate court.

7. Pending miscellaneous application, if any, also stands disposed of.

April 15th, 2024 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

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

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