

2024:PHHC:010025

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

224

RSA-1093-2015 (O&M)
Date of Decision : 24.01.2024

KURA SINGH

..... Appellant

Versus

BACHITTAR SINGH

..... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S. Jaswal, Advocate for the appellant.

Mr. Aditya Dassaur, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present appeal has been preferred by the defendant-appellant challenging the quantum of future interest as being awarded @ 8% per annum. The Trial Court vide judgment and decree dated 11.07.2014 had decreed the suit of the plaintiff-respondent with costs for recovery of Rs.5 lacs against the defendant-appellant with pendente-lite interest @ 12% per annum from the date of pronote and receipt till the date of this decree along with future interest @ 8% per annum. The appeal of the defendant-appellant was dismissed vide judgement and decree dated 20.09.2014.

2. Learned counsel for the defendant-appellant would contend that as per Section 34 of Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC'), future interest rate cannot exceed 6% per annum.

3. Learned counsel for the plaintiff-respondent has contended that the impugned judgments and decrees passed by the Trial Court and the First

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Appellate Court cannot be faulted with as regards awarding of future interest @ 8% per annum, rather the same is on the lower side.

4. Heard.

5. In the present case, only the dispute is regarding the future rate of interest which has been awarded @ 8% per annum on the principal amount till date of actual realization thereof. Section 34 of the CPC reads 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 :

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).

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.

(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 therefor shall not lie.”

6. Even as per Section 34 of the CPC, future interest cannot exceed @ 6% per annum.

7. In view of the above, this Court deems it appropriate to reduce the future interest to @ 6% per annum. Accordingly, the appeal stands allowed partially and the impugned judgements and decrees are modified to that limited extent. Pending application(s), if any, also stand disposed off.

24.01.2024
D.Bansal

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO