



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

ESA-18-2023 (O&M)

Date of decision : 27.03.2025

Vijay Kumar Kakkar

...Appellant

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.K. Brinda, Advocate
for the appellant.

Mr. Anil Bansal, DAG, Punjab.

ANIL KSHETARPAL, J. (Oral)

I **Brief Facts:-**

1. There is a decree for recovery of Rs. 7,400/- alongwith the compound interest @ 18% with half yearly rests from the date of deposit of the amount till its realization in favour of the appellant.
2. In RSA No. 4736 of 2002, decided on 20.12.2017, the following directions were issued:-

"As a result, this appeal is accepted and the judgments and decrees of the courts below are set aside and suit filed by the respondent-plaintiff stands dismissed. However, it is ordered that the respondent-plaintiff is entitled to refund of Rs.7400/- alongwith compound interest @ 18% with half yearly rests from the date of deposit of amount till its realization."

3. The appellant filed an execution petition, in which, the State of Punjab filed objections. During the pendency of the execution petition, an amount of Rs. 35,31,254/- was paid to the appellant.
4. The Executing Court dismissed the execution petition as satisfied,



whereas, the First Appellate Court allowed the appellant's appeal with the following directions:-

"In view of my above discussion, appeal filed by the appellant/Decree Holder against impugned order dated 16.11.2019 is allowed and the impugned order passed by the learned Court below is set-aside. The appellant/decree holder is entitled to get compound interest @ 18% per annum with half yearly rests on 7,400/- w.e.f. 01.04.2019 till 11.10.2019 when the payment of 35,31,254/- including interest calculated up to 31.03.2019 was made to the appellant/decree holder. The JDs/respondents are directed to make the payment of above said outstanding interest amount to the appellant/decree holder within 30 days from the date of receiving the certified copy of this Judgment. Memo of costs be prepared accordingly. Record of learned Court below be sent back along with copy of this judgment and file of this appeal be consigned to record room."

II. **Arguments:-**

5. Learned counsel representing the appellant contends that the amount of Rs.7,400/- was deposited in the staggered manner as shown below:-

<i>"Date</i>	<i>Amount Deposited</i>
<i>16.02.1981</i>	<i>Rs. 1120-00</i>
<i>05.10.1981</i>	<i>Rs.0010-00</i>
<i>15.03.1983</i>	<i>Rs.0350-00</i>
<i>09.06.1983</i>	<i><u>Rs.5920-00 the petitioner was highest bidder</u></i>
	<i><u>Rs.7400-00 auction was conformed"</u></i>

6. He submits that the compound interest @ 18% with half yearly rests is to be calculated from the date of the deposit of the amount. He submits

that on the amount of Rs.1,120/-, the interest will have to be calculated from 16.02.1981. Similarly, with regard to the subsequent deposits, the interest will be calculated from the date of deposit. He further submits that the interest compounded shall become part of the principal, which will again carry interest. However, the First Appellate Court has erred in observing that the appellant is entitled to compound interest on Rs. 7,400/- w.e.f. 01.04.2019 till 11.10.2019.

III **Analysis and Discussion:-**

7. The Executing Court is required to implement the decree. If there was any difficulty in arriving at a correct conclusion, the Court could have taken the help of a Bank official or a Chartered Accountant. However, the Appellate Court was not correct in directing the payment of interest from 01.04.2019 till 11.10.2019 only on the amount of Rs. 7,400/-.

8. Consequently, the impugned order is set aside with direction to the First Appellate Court to properly calculate the amount and pass appropriate orders.

IV **Decision:-**

9. The parties through their counsel are directed to appear before the First Appellate Court on 25.04.2025.

10. With these observations, the appeal is disposed of.

11. All the pending miscellaneous applications, if any, are also disposed of.

27.03.2025

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(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No