

2025:PHHC:054064



143(2 cases) **IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Decided on:-25.04.2025

1. *RSA-1877-1992 (O&M)*

Manohar Lal

....Appellant..

vs.

Punjab State Electricity Board, Patiala thr. its
Secretary and another

...Respondents.

2. *RSA-2171-1992 (O&M)*

S.D.O. Punjab State Electricity Board North
Sub-Division, Batala

vs.

Manohar Lal and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Vishal Verma, Advocate for
Mr. Prateek Gupta, Advocate,
for the appellant (in RSA-1877-1992) and
for respondents (in RSA-2171-1992).

Mr. Ashwani Talwar, Advocate with
Mr. Deepak Goyat, Advocate,
for the respondents (in RSA-1877-1992) and
for the appellant (in RSA-2171-1992).

HARKESH MANUJA J. (Oral)

1. This common judgment of mine shall dispose of above mentioned two appeals bearing RSA-1877-1992(O&M) and RSA-2171-1992 (O&M) as both these appeals have arisen out of the same judgments and decrees.

1.2 For convenience, the facts are being taken from RSA-1877-1992 (O&M).

2. By way of present appeal, challenge has been laid to the judgment and decree dated 27.05.1992 passed by the learned Additional District Judge, Gurdaspur, whereby, the first appeal preferred at the instance of appellant-plaintiff having laid challenge to the judgment and decree dated 31.08.1990 passed by the learned Sub-Judge Ist Class, Batala, was partly accepted.

3. Briefly stating, the appellant-plaintiff happened to be a consumer of respondents-defendants having Electricity Connection No.F/691 SP installed in his premises. Alleging that the seals of the aforesaid electricity meter were found to be fake during an inspection/checking conducted on 13.05.1986, respondent No.2/defendant No.2 called upon the appellant-plaintiff vide memo No.1435 dated 16.05.1986 to make the following deposits:

- “i) To deposit Rs.640/- as cost of the meter.*
- ii) To deposit Rs.1500/- as security*
- iii) To deposit Rs.25027/- as difference in energy charges*
- iv) To pay Rs.25/- as reconnection charges.*
- v) To submit an affidavit on non-judicial paper worth rupees three for undertaking for not repeating the same in future.”*

3.1 In the meanwhile, the electricity connection of the appellant-plaintiff was disconnected on 13.05.1986. Appellant-plaintiff deposited a sum of Rs.23,390/- with respondents-defendants on 17.05.1986; resulting into restoration of the electricity connection. However, aggrieved of the demand raised on behalf of the respondents-defendants, while stating it to be

illegal on the averments that his electric meter No.F/691 SP was in good running condition and it was not a case of fake meter seals, appellant-plaintiff filed a suit for recovery of the deposit made by him of Rs.23,390/- along with interest thereupon.

4. Upon notice, the respondents-defendants appeared and filed their joint written statement while relying upon inspection/checking conducted on 13.05.1986 by the AEE/flying squad upon the premises of the appellant-plaintiff wherein it was pleaded that the meter seals were found to be fake and resultantly, the demand vide memo No.1435 dated 16.05.1986 was raised. The factum of deposit of Rs.23,390 on 17.05.1986 by the appellant-plaintiff was admitted by the respondents-defendants in their written statement though, it was submitted that the deposit was made without any objection or protest and thus, the suit was not maintainable.

4.1 Replication to the written statement, filed on behalf of the respondents-defendants, was preferred at the instance of appellant-plaintiff reiterating the stand taken in the plaint. Based on the pleadings, following issues were framed by the trial Court:-

- “1. Whether the plaintiff is entitled to recover the suit amount from the defendants? OPP
2. Whether the seals of the meter of the plaintiff were fake as alleged if so, to what effect? OPD
3. Relief.”

4.2 Having considered the pleadings and evidence led by the parties, the trial Court vide judgment and decree dated 31.08.1990, dismissed the suit filed at the instance of appellant-plaintiff.

5. Being aggrieved, the appellant-plaintiff filed first appeal, which

came to be partly accepted vide judgment and decree dated 27.05.1992 passed by the then Additional District Judge, Gurdaspur, thereby granted a decree for a sum of Rs.17,195/- in favour of appellant-plaintiff. The operative paragraph No.10 thereof is extracted hereunder:-

“10. In view of provisions of Section 26(6) of the Indian Electricity Act, which reads as under, the contention of learned counsel for appellant is well founded:-

“Where any difference or dispute arises as to whether any meter referred to in sub-Section (1) is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector, and where the meter has in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply during such time, not exceeding six months, as meter shall not, in the opinion of such Inspector, have been correct but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

In these premises, it is held that appellant is liable to penalty for consumption of electric energy for a period of five months i.e. from the date of previous inspection of the meter when it was found to be correct that is 26.11.1985 to 13.5.1986 when Flying Squad the seals of meter in question to be fake one and penalty for consumption of electricity for this period admittedly comes to Rs. 4030/-. The appellant is further liable to pay Rs.2165/- on account of reconnection security and costs of meter. Thus total amount comes to Rs.6195/- Appellant has filed suit for recovery of Rs.23390/-. Out of this amount he is liable to pay Rs.6195/- as referred to above. Therefore, respondents are liable to pay the refund of Rs.17195/- to the appellant which amount has

been charged from him in excess, than the amount it could actually be charged under the provisions of Electricity Act and Rules thereunder.”

6. Both the parties being aggrieved against the judgment and decree dated 27.05.1992 passed by the then Additional District Judge, Gurdaspur, preferred their separate appeals before this Court.

6.1 In the appeal preferred at the instance of appellant-plaintiff, the primary grouse raised was that once the appellant-plaintiff found entitled for refund/recovery of Rs.17,195/-, the First Appellate Court should have granted suitable interest thereupon as the said amount deposited by the appellant-plaintiff was retained and utilized by the respondents since 17.05.1986.

7. On the other hand, learned counsel appearing on behalf of the respondents-defendants submits that once, the inspection report dated 13.05.1986, wherein, the meter seals were found to be fake was proved on record as Ex.DW-1, the First Appellate Court went wrong while relying upon the previous inspection report dated 26.11.1985 (Ex.DW-2/A) so as to reduce the amount of penalty followed by passing of decree for recovery of Rs.17,195/-. He thus, submits that the judgment and decree dated 27.05.1992 passed by the First Appellate Court was liable to be set aside and that of Id. Trial Court was liable to be restored.

8. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the appellant-plaintiff.

9. A perusal of record shows that the electricity meter connection No.F/691 SP, installed in the premises of appellant-plaintiff was initially

examined by the Department on 26.11.1985 and the same was found to be running perfectly as established on record vide report Ex.DW-2/A. Subsequently, on 13.05.1986, a fresh inspection of the electricity connection in question was conducted by the AEE/Flying Squad, wherein, the meter seals were found to be fake followed by issuance of demand notice dated 16.05.1986 for recovery of Rs.29,027/-. Admittedly, in pursuance thereof, the appellant-plaintiff deposited a sum of Rs.23,390/- on 17.05.1986 as the minimum sum required for the purpose of restoration of his electricity. In such circumstances, once, the electricity meter connection No.F/691 SP been examined by PSEB Department was found to be intact on 26.11.1985; in terms of Section 26(6) of the Indian Electricity Act, 1910, at best the appellant-plaintiff could be fastened with the liability of penalty while taking into account the default period to be at best from 26.11.1985 to the day of fresh checking held on 13.05.1986 and accordingly, no illegality or perversity could be found with the findings recorded by the First Appellate Court, which reduced the amount of penalty proportionately and ordered for refund/recovery of Rs.17,195/- in favour of appellant-plaintiff. Further more, once the refund for a sum of Rs.17,195/- was rightly found to be decreed in favour of appellant-plaintiff, the same been thus, retained and utilized by the respondents-defendants at the expense of appellant-plaintiff, he was entitled to be awarded suitable interest thereupon. Accordingly, in the facts and circumstances of the case in hand, the judgment and decree dated 27.05.1992 passed by the First Appellate Court is modified and in exercise of powers under Section 34 of the Code of Civil Procedure, 1908, the appellant-plaintiff is held entitled for interest @ 6% per annum over the

refunded amount of Rs.17,195/- from the date of deposit till the date of its disbursement. Reference in this regard can be made to case titled as **“Tahazhathe Purayil Sarabi vs. Union of India” 2009(7) SCC 372**, relevant paragraphs No.15 to 18 thereof are extracted hereunder:-

“15. As indicated hereinbefore, apart from the provisions of the [Interest Act](#), 1978 [Section 34](#) of the Civil Procedure Code also empowers the Court to order interest on a decree for payment of money in the following manner:

“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, 2[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 therefore shall not lie."

16. It is, therefore, clear that the Court, while making a decree for payment of money is entitled to grant interest at the current rate of

interest or contractual rate as it deems reasonable to be paid on the principal sum adjudged to be payable and/or awarded, from the date of claim or from the date of the order or decree for recovery of the outstanding dues. There is also hardly any room for doubt that interest may be claimed on any amount decreed or awarded for the period during which the money was due and yet remained unpaid to the claimants.

17. *The Courts are consistent in their view that normally when a money decree is passed, it is most essential that interest be granted for the period during which the money was due, but could not be utilized by the person in whose favour an order of recovery of money was passed. As has been frequently explained by this Court and various High Courts, interest is essentially a compensation payable on account of denial of the right to utilise the money due, which has been, in fact, utilized by the person withholding the same. Accordingly, payment of interest follows as a matter of course when a money decree is passed. The only question to be decided is since when is such interest payable on such a decree. Though, there are two divergent views, one indicating that interest is payable from the date when claim for the principal sum is made, namely, the date of institution of the proceedings till the recovery of the amount, the other view is that such interest is payable only when a determination is made and order is passed for recovery of the dues. However, the more consistent view has been the former and in rare cases interest has been awarded for periods even prior to the institution of proceedings for recovery of the dues, where the same is provided for by the terms of the agreement entered into between the parties or where the same is permissible by statute.”*

18. *Accordingly, we are unable to sustain the order of the Railway Claims Tribunal directing payment of interest on default of the payment of the principal sum within a period of 45 days. As we have indicated hereinbefore, when there is no specific provision for grant of interest on any amount due, the Court and even Tribunals have been held to be entitled to award interest in their discretion, under the provisions of [Section 3](#) of the Interest Act and [Section 34](#) of the Civil Procedure Code.”*

10. In view of the reasoning recorded herein above, the appeal

*RSA-1877-1992 (O&M) and
RSA-2171-1992 (O&M)*

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bearing RSA No.1877-1992, filed at the instance of appellant-plaintiff (consumer) stands partly allowed, whereas, the appeal bearing RSA No.2171-1992 filed at the instance of respondents-defendants (Department) stands dismissed. Decree sheet be prepared accordingly.

11. Pending applications, if any, also stand disposed of.

25.04.2025

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/ No