(2009) 11 P&H CK 0157

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Babu Singh		APPELLANT
	Vs	
Shamsher Singh and Another		RESPONDENT

Date of Decision: Nov. 9, 2009

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 34

Citation: (2010) 3 CivCC 324 : (2010) 159 PLR 130 : (2010) 5 RCR(Civil) 663

Hon'ble Judges: M.M.S. Bedi, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

M.M.S. Bedi, J.

Suit of the plaintiff-appellant for recovery of a sum of Rs. 24970/- was decreed. The defendant-respondents was burdened with future interest on decretal amount at the rate of 1% per month from the date of institution of suit till realization. Suit of the plaintiff- appellant was decreed against defendant No. 1 Gill International Travel Service and defendant No. 2 Shamsher Singh. Defendant No. 2 Shamsher Singh preferred an appeal against the decree for recovery of money against the plaintiff-respondents and his co-defendant No. l. The lower Appellate Court dismissed the appeal and affirmed the order of the trial Court for recovery of Rs. 24970/- but reversed the judgment of the trial Court allowing future interest at the rate of 12% per annum and taking into consideration the provisions of Section 34 CPC reduced the interest on the decretal amount to 6% per annum. The appeal, however, was dismissed. The plaintiff being dissatisfied with the order passed by the lower Appellate Court reducing the rate of interest preferred the appeal on the ground that reduction of rate of interest from 12% per annum awarded by the trial Court to 6% per annum is wrong, warranting interference.

2. I have heard counsel for the appellant and tounsel for the respondents. Counsel for the appellant sought to raise the following law point:

i) Whether the order of lower Appellate Court reducing the rate of interest in the light of provisions of Section 34 CPC is sustainable in view of the amount was paid for commercial transaction.

3. After hearing counsel for the appellant as well as counsel for the respondents, I am of the opinion that a very short question has been raised in the present appeal regarding the validity of an order passed by the lower Appellate Court reducing the rate of interest from 12% per annum to 6% per annum.

4. Counsel for the appellant has contended that the money which was handed over to the respondents was actually the result of commercial transaction as the defendant-respondents were running their business under the name and style of Gill International Travel Service and a sum of Rs. 1900/- and another sum of Rs. 5500/- were paid to respondent No. 2 in commercial transactions.

5. The lower Appellate Court has after proper application of mind on the facts of the present case, arrived at a conclusion that the plaintiff is entitled to interest at the rate of 6% per annum till the recovery of the decretal amount. So far as the provisions of Section 34 CPC is concerned, it was incorporated by amendment of 1976 with a view to increasing postdecretal interest in relation to a liability arising out of a commercial transaction on the principal sum adjudged, so that the existing provision of rate of interest not exceeding 6% may not be exploited by the commercial operator by lending the money borrowed by them at a higher rate than 6% and thereby earning profits.

6. There is no agreement or contract between the plaintiff petitioner and the defendants regarding the rate of interest which can be charged. In the absence of any agreement for interest, only statutory interest can be allowed as, provided u/s 34 CPC. The lower Appellate Court seems to have granted the future interest at the rate of 6% per annum taking into consideration the principles of equity and good conscious as per the provisions of Section 34 CPC. Challenge to the rate of interest imposed by a Court while decreeing a suit for recovery will not constitute a substantial question of law. The lower Appellate Court has rightly reduced the rate of future interest from 12% per annum to 6% per annum. There is no merit in the appeal.

Dismissed.