

(1995) 03 MP CK 0040
In the Madhya Pradesh High Court
Case No : F.A. No. 82 of 1986

Oriental Bank of Commerce		APPELLANT
	Vs	
Devi Prasad Verma and Others		RESPONDENT

Date of Decision : 09-03-1995

Acts Referred:

Banking Regulation Act, 1949 — Section 21A
Usurious Loans Act, 1918 — Section 3

Citation : (1999) 95 CompCas 490 : (1996) 41 MPLJ 155 : (1996) MPLJ 155

Hon'ble Judges : P.N.S. Chauhan, J; D.K. Jain, J

Bench : Division Bench

Advocate : G.C. Bhatiya, for the Appellant; None, for the Respondent

Final Decision : Allowed

Judgement

P.N.S. Chouhan, J.

Respondent No. 1 obtained a loan from the plaintiff-bank for purchase of a truck. Respondents Nos. 2 and 3 are the guarantors. The loan of Rs. 1,03,000 was to carry interest at the rate of 15 per cent, per annum with half-yearly rests. The truck was purchased and part payment made. The bank had to sue the respondents for outstanding dues and obtained a decree in C. S. No. 17B of 1982, of the Court of District Judge, Ratpur. All the crucial issues were held in favour of the bank but the learned District Judge did not award any interest pendente lite and awarded interest at 6 per cent, per annum from the date of decree till realisation. It is this finding as to award of interest which is under challenge in this appeal by the bank.

Reliance was placed by the appellant's learned counsel on the following observations of this court in Bharat Engineering v. Punjab National Bank [1987] 2 Bank CLR 329 :

"The provision contained in Section 21 of the Banking Laws (Amendment) Act, 1983 (Act No. 1 of 1984), which came into force on and from January 12, 1984,

provides that notwithstanding anything contained in the Usurious Loans Act, 1918, or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive. In view of this provision, the interest agreed to be paid by the appellant-borrowers and charged by the respondent bank cannot be reopened. Apart from saying that it is excessive or penal, learned counsel has placed no other material to defend the appellants' liability to pay interest as agreed. Interest charged as per the agreement, therefore, cannot be reopened and the appellants can be given no relief on that account."

Section 24 of the Banking Laws (Amendment) Act, 1983, inserting Section 21A in the Banking Regulation Act, 1949, which came into force on February 15, 1984, is quoted below :

"21A. Rates of interest charged by banking companies not to be subject to scrutiny by courts.--Notwithstanding anything contained in the Usurious Loans Act, 1918 (10 of 1918), or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any court on the ground that the rate of interest charged by the banking company in respect of such transaction is excessive."

Therefore, we find the submission valid that after the coming into force of this Act, the District Judge was not empowered to reduce the rate of interest payable by the respondents after the passing of the decree and committed an error in not allowing interest at the covenanted rate pendente lite.

In the result, we allow this appeal. The finding of the learned trial judge for payment of interest at the rate of 6 per cent, after the passing of the decree is set aside and instead it is hereby directed that the respondents shall pay the agreed compound interest at the rate of 15 per cent, per annum from the date of the institution of the suit till realisation. No order as to costs.