HARYANA STATE LAW COMMISSION

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THIRTY FOURTH REPORT

HARYANA STATE AMENDMENT TO SECTION 34 OF THE CODE OF CIVIL PROCEDURE, 1908

Government of Haryana

HARYANA STATE LAW COMMISSION

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02nd January, 2026

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1. On interest, the Hon'ble Supreme Court of India in case *Indian Council for Enviro-Legal Action v/s Union of India, reported in (2011) 8 SCC 161*, in its judgment, paragraphs No.178, 179, 180 and 181 observed as under:-

> *"178. To do complete justice, prevent wrongs, remove incentive for wrongdoing or delay, and to implement in practical terms the concepts of time value of money, restitution and unjust enrichment noted above or to simply levelise a convenient approach is calculating interest. But here interest has to be calculated on compound basis and not simple for the latter leaves much uncalled-for benefits in the hands of the wrongdoer.*

179. Further, a related concept of inflation is also to be kept in mind and the concept of compound interest takes into account, by reason of prevailing rates, both these factors, i.e., use of the money and the inflationary trends, as the market forces and predictions work out.

180. Some of our statute law provide only for simple interest and not compound interest. In those situations, the courts are helpless and it is a matter of law reform which the Law Commission must take note and more so, because the serious effect it has on the administration of justice. However, the power of the court to order compound interest by way of restitution is not fettered in any way. We request the Law Commission to consider and recommend necessary amendments in relevant laws.

181. "Compound interest" is defined in Black's Law Dictionary, 8th Edn. (Bryan A. Garner) at p.830 as "interest paid on both the principal and the previously accumulated interest". It is a method of arriving at a figure which nears the time value of money submitted under Head 2 earlier. As noted, compound interest is a norm for all commercial transactions".

2. The Haryana State Law Commission analysed Section 34 of the Code of Civil Procedure, 1908 in the light of the aforestated observations of the Hon'ble Supreme Court of India and has also gone through the following judgments: -

i) Kaluram Bholaram v/s Chimniram Motilal (AIR 1934 BOMBAY 86).

ii) H.P. Krishna Reddy v/s Canara Bank (AIR 1985 KANT 228)

iii) Renusagar Power Co. Ltd. v/s General Electric Co., (1994 Supp (1) SCC 644)

iv) State of Haryana and Others v/s M/s S.L.Arora and Company (AIR 2010 SC 1511)

v) T.N. Generation and Distribution Corporation Ltd. v/s PPN Power Generating Co. (P) Ltd., [(2014) 11 SCC 53]

vi) Hyder Consulting (UK) Ltd. v/s State of Orissa [(2015) 2 SCC 189]

vii) UHL Power Co. Ltd. v/s State of H.P. [(2022) 4 SCC 116]

vii) Suneja Towers Private Limited and another v/s Anita Merchant [(2023) 9 SCC 194]

3. The definition of “interest” as per encyclopedia of Social Science is as under: -

> In Economics and Finance, "interest" is the payment made by a borrower to a lender for the use of money over a period of time. This is often expressed as an interest rate, which is the percentage of the principal amount charged.

4. The act of gaining undeserved and unfair advantage by a party can be neutralized by awarding interest at higher rate and further by compounding of interest. Interest can be used as a levelising equivalent to make good the loss or damage inflicted upon a party. The inflation factor is also to be taken into account while applying the concept of compound interest. The value of money decreases with the passage of time. Therefore, simple interest always under-compensates the injured parties for the loss suffered. Compounding of interest in a way reflects economic reality.

5. In advanced countries like U.K., Australia, Canada, U.S.A., etc. normally the courts award compound interest for the lost opportunity to use that money. It is

perhaps the experience of the courts of those countries that the compound interest serves as a deterrent against the willful wrongdoing and dilatory tactics in legal proceedings.

6. Section 34 of Civil Procedure Code provides for payment of simple interest from the date of suit till the date of decree and from the date of decree till the date of realization of payment. Section 3(3)(c) of the Interest Act, 1978 contains the non-obstante clause that nothing in Section 3 shall empower the court to award interest upon interest. Further, Section 5 of the Interest Act, 1978 gives primacy to provisions of Section 34 of the Code of Civil Procedure over the provisions of the Interest Act. Therefore, an amendment to Section 34 would be sufficient for the purpose of restitution as discussed above.

RECOMMENDATIONS

Interest plays pivotal role in all economic, industrial and business transactions as most of these transactions are done on credit and loan basis. Therefore, regularisation of interest is dire necessity for smooth running of all these sectors. To make the provisions contained in Section 34 of Code of Civil Procedure, 1908 more realistic, meaningful, precise and juristically satisfactory, the Haryana State Law Commission proposes to substitute the existing Section 34 as follows: -

S. 34. Interest

(1) Pre-suit-Interest:

Where and insofar as a decree is for the payment of money, the Court may, in a decree, order interest at such rate as the court deems reasonable to be paid on the principal sum adjudged, from the date of the cause of action to the date of the institution of the suit, where interest is not previously agreed upon by the parties or otherwise provided by law.

(2) Pendente-Lite-Interest:

The Court may, at its discretion and for reasons to be recorded in writing, order simple or compound interest on the principal sum adjudged, from the date of institution of the suit to the date of the decree, at such rate as the Court considers reasonable and just.

(3) Post-Decree-Interest:

The Court may further order that interest, whether simple or compound, shall be payable on the principal sum adjudged (or on such portion thereof as the Court may fix) at such rate as it deems reasonable from the date of the decree to the date of payment or such earlier date as the Court may determine.

(4) Discretionary Power and Safeguards: (a) In exercising discretion to grant compound interest, the Court shall have regard to the following: -

i. Whether compound interest was contractually agreed upon or is customary in the nature of the transaction;

ii. Whether denial of compound interest would result in unjust enrichment of the judgment-debtor;

iii. Whether the judgment-debtor would suffer manifest hardship by the imposition of compound interest;

iv. Whether the defendant has made frivolous counter-claim and ex-facie untenable defence. leading to the delay in the disposal of the suit;

v. Whether any reasonable offer to settle the dispute is made by a party and refused by the other party.

vi. Rate of inflation;

vii. Whether there is a fiduciary relationship between the parties;

viii. Whether the transaction is amongst the members of the family or amongst close relatives like father, mother, son, daughter, brother, sister, grand-father, grand-mother, grand-son and grand-daughter;

ix. Whether the financial assistance is availed of for agricultural purposes and by the actually cultivating farmers;

x. Whether the villages, in which the lands of the agricultural loanee are situated, have suffered the floods, droughts and other natural calamities;

xi. Whether the sanctioned amount is disbursed in its entirety and within the agreed time and if not so, whether there are justifiable grounds for the same;

(b) The Court shall ensure that the interest awarded under this Section, whether simple or compound, is not penal, unconscionable, or usurious, and in any event shall not exceed twice the benchmark lending rate, notified by the Reserve Bank of India as applicable on the date of the decree.

(5) Interest on Interest:

No interest shall be awarded upon interest accrued up to the date of the decree unless:

a) such interest forms part of the principal by agreement or usage, or

b) it is awarded as compound interest under sub-sections (2) or (3).

(6) Commercial Transactions:

Notwithstanding anything contained herein, in any suit arising out of a commercial transaction, the Court may award interest at a rate not exceeding:

a) the rate agreed upon by the parties, including compound interest, if not penal or unconscionable; or

b) in the absence of agreement, a rate the Court considers reasonable, which may include compound interest, subject to sub-section (4)(b).

(7) Explanation:

For the purposes of this Section:

a) "compound interest" means interest calculated on the accrued interest over previous periods;

b) "benchmark lending rate" means the marginal cost of funds-based lending rate (MCLR) or such other standard rate as may be notified by the Reserve Bank of India;

c) "commercial transaction" is a transaction, if it is connected with industry, trade or business of the party incurring the liability.

NOTE

As the subject-matter of the proposed amendment falls in the List-III (concurrent list) in the Seventh Schedule to the Constitution of India, the Bill requires the assent of the President of India under Article 254(2) of the Constitution of India.

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