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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**RSA-5009-2001 (O&M)
Date of Decision: 31.07.2025**

Haryana State through Collector, Rewari and anotherAppellants

Vs.

Smt. Kamal and othersRespondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. Manish Dadwal, Assistant Advocate General, Haryana,
for the appellants.

Mr. B.K.Bagri, Advocate,
for respondents No.2 to 6 and 8 to 10.

SUDEEPTI SHARMA J. (ORAL)

1. The present Regular Second Appeal is preferred against the judgment and decree dated 24.11.1999 passed by the learned Civil Judge (Senior Division), Rewari, whereby, civil suit filed by the respondents was decreed along with interest @ 18 per annum in their favour and judgment and decree dated 03.02.2001 passed by the learned Additional District Judge, Rewari, whereby, the appeal filed by the appellant-State against the judgment and decree dated 24.11.1999 was dismissed with the modification by reducing the rate of interest from 18% per annum to 12% per annum.

2. Brief facts of the case are that the husbands of the respondents died in harness and all the respondents were appointed on compassionate



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ground. Family pension was sanctioned but the respondents were not given the dearness allowance on the family pension. They filed civil suit for declaration as consequential relief. The civil suit filed by the respondents was decreed in their favour and they were held entitled to dearness allowance on family pension along with interest @ 18% per annum, vide judgment and decree dated 24.11.1999 passed by the learned Civil Judge (Senior Division), Rewari. The appellant-State filed appeal against the judgment and decree dated 24.11.1999 only on the ground that the interest awarded @ 18% per annum by the learned Civil Judge (Senior Division), Rewari, is highly excessive and as per Section 34 of the Code of Civil Procedure, 1908 (for short, 'CPC'), the respondents are entitled to interest @ 6% per annum. Learned Additional District Judge, Rewari, modified the judgment and decree dated 24.11.1999 to the extent of reducing the interest from 18% to 12% per annum. Hence, the present regular second appeal.

3. Learned counsel for the appellants contends that the interest from 18% per annum awarded by the learned Civil Judge (Senior Division) Rewari, though modified by the learned Additional District Judge, Rewari, to 12% per annum, which is also on the higher side and it should have been @ 6% per annum and prays that the present appeal be allowed.

4. *Per contra*, learned counsel for the respondents submits that interest @ 12% per annum has rightly been granted by the learned



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Additional District Judge, Rewari. Therefore, he prays for dismissal of the present appeal.

5. I have heard learned counsel for the parties and perused the whole record of this case with their able assistance.

6. A perusal of the record shows that the present Regular Second Appeal was dismissed by the Co-ordinate Bench of this Court on 21.04.2003. The appellants-State filed review application i.e. RA-18-C-2004 by relying upon judgment passed in **Union of India and others Vs. Rekha Majhi 2002(2) R.S.J, 641** and the review application was allowed and the order dated 21.4.2003 was withdrawn, vide order dated 19.08.2005 passed by the Co-ordinate Bench of this Court.

7. The only contention raised by the appellants in the present appeal is that interest @ 12% granted by the learned Additional District Judge, Rewari is on the higher side and it should have been @ 6% per annum. The judgment i.e. **Rekha Majhi's case (supra)** relied upon by the appellants is on the question as to whether the respondent therein was entitled to dearness relief on the family pension admissible to her even after getting appointment on compassionate ground in the Railways and Rule 21 of the Railways Services (Pension) Rules, 1993 was relied upon by the appellant therein. As per Rule 21(ii), if a pensioner is re-employed under the Central or a State Government or a Corporation, Company, Body or Bank under such Government in India or abroad including permanent absorption



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in such Corporation, Company, Body or Bank, he shall not be eligible to draw dearness relief on pension or family pension during the period of such re-employment. The appeal filed by the Union of India was allowed by relying upon Rule 21 (ii) of the Railways Services (Pension) Rules, 1993, whereas, since the respondent therein was already paid the dearness allowance, therefore, the excess pension paid to the respondent was held not to be recovered from her as the respondent therein was a widow and sole bread earner of the family.

This judgment would not be applicable in the present case, since the facts of this case are distinguishable.

8. The appellants while filing the first appeal before the learned Additional District Judge, Rewari, did not raise the issue regarding payment of dearness allowance and only contended that the interest awarded by the learned Civil Judge (Senior Division), Rewari, was excessive, by relying upon Section 34 CPC. Before this Court also, the appellants did not pray any other issue except for the interest paid to the respondents @ 12% per annum by stating that it should have been @ 6% per annum, as per Section 34 CPC. The bare reading of Section 34 CPC shows that it is regarding the cases where decree is for payment of money. Therefore, Section 34 CPC would not be applicable in the present case.

9. In view of the above, the interest modified by the learned Additional District Judge, Rewari, vide its judgment dated 03.02.2001,



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@ 12% per annum is rightly modified and the same does not require any interference by this Court.

10. Consequently, the present appeal is hereby **dismissed**. Parties are left to bear their own costs.

11. Decree sheet be drawn.

12. Pending application(s), if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

31.07.2025

Virender

Whether speaking/non-speaking : Yes

Whether reportable : Yes/No