



2025:DHC:3067-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 21.04.2025*

+ MAT.APP.(F.C.) 145/2025

ANIL KUMAR (DECEASED), THROUGH LEGAL HEIRS

.....Appellants

Through: Mr. Jai Bansal, Adv.

versus

ANJU

.....Respondent

Through: Nemo.

CORAM:**HON'BLE MR. JUSTICE NAVIN CHAWLA****HON'BLE MS. JUSTICE RENU BHATNAGAR****NAVIN CHAWLA, J. (ORAL)****CM APPL. 22766/2025 (Exemption)**

1. Allowed, subject to all just exceptions.

MAT.APP.(F.C.) 145/2025 AND CM APPL. 22767/2025

2. This appeal has been filed by the appellants, who are the legal heirs of late Sh. Anil Kumar, challenging the Order dated 18.03.2025 passed by the learned Principal Judge, Family Court-02, District South, Saket, New Delhi (hereinafter referred to as, 'Family Court') in EX Crl No. 20/2021, titled *Smt. Anju v. Sh. Sunil Kumar (Deceased)*, whereby the Pay and Accounts Office, Lok Sabha Secretariat, New Delhi, has been directed to pay a sum of Rs. 3,50,000/- to the respondent along with interest @10% per annum from the retiral/death benefits of late Sh. Anil Kumar (wrongly mentioned as Sunil Kumar in the impugned order).

3. To give a brief background of the case, the learned Principal



Judge, Family Court, South District, Saket, *vide* its Judgment dated 24.01.2020 passed in HMA No. 148/2018, titled **Anil Kumar v. Anju**, had dissolved the marriage between late. Sh. Anil Kumar and the respondent. It was further directed that late Sh. Anil Kumar shall pay an amount of Rs. 3,50,000/- to the respondent as permanent alimony and maintenance within three months from the date of the said Judgment/Decree. It was also directed that in case the payment is not made within the stipulated period, the respondent would be entitled to execute the said order and recover the said amount from late Sh. Anil Kumar along with interest @10% per annum from the date starting after the expiry of three months from the date of Judgment. We deem it appropriate to quote the relevant paragraph of the said Judgment, which reads as under:-

“24. As a necessary corollary and upshot of my foregoing discussion, the petition is allowed in view of the overwhelming evidence on record. The marriage between the petitioner/ husband-Anil Kumar and respondent/wife-Anju is hereby dissolved u/s 13(1) (ia) of the HMA with immediate effect. The petitioner / husband is directed to pay an amount of Rs. 3.5 lakhs by means of an account payee bank draft to the respondent/wife as permanent alimony and maintenance within 3 months from the date of this judgment. In case, the payment is not made within the stipulated period, she would be entitled to execute this order as a decree of civil court for recovery of Rs. 3.5 lakh from her husband / petitioner with interest @ 10% from the date of starting after expiry of 3 months from today till the date of actual recovery. No order as to costs. Decree sheet be drawn accordingly. File be consigned to record room”



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4. Admittedly, the said amount was not paid by late Sh. Anil Kumar and he unfortunately expired in the month of December, 2020.

5. The appellants herein, who are the brother and sister of late. Sh. Anil Kumar, sought a Letter of Succession to the estate of late. Sh. Anil Kumar, which was eventually granted *vide* Order dated 07.02.2023. In the meantime, the respondent had filed an execution petition, in which the above Impugned Order has been now passed.

6. The learned counsel for the appellants submits that the respondent, at best, would be entitled to claim interest till the date of death of late Sh. Anil Kumar and not beyond it. He further submits that the non-payment of the alimony amount after the death of late Sh. Anil Kumar was beyond the control of the appellants, inasmuch as the appellants had been advised to first apply for a Succession Certificate before the retiral amount of late Sh. Anil Kumar is released to them. He further submits that the interest awarded in the present case is penal in nature and, therefore, cannot operate where the non-payment is due to reasons beyond the control of the appellants. In support of his plea, he also places reliance on the decision of the Karnataka High Court in *Smt Sudhabai v. Smt. Rashmi V Rao*, 2024:KHC-D:6036.

7. We have considered the submissions made by the learned counsel for the appellants, however, find no force in the same.

8. Admittedly, *vide* Judgement dated 24.01.2020, while granting a decree of divorce to late Sh. Anil Kumar, the learned Family Court had further directed that he shall pay a sum of Rs. 3,50,000/- to the respondent as permanent alimony and maintenance within three



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months of the said Judgment. It was further directed that in case he fails to make the said payment within the time granted, the respondent shall also be entitled to interest @10% per annum on the said amount, from the date starting after the expiry of three months from the date of Judgment.

9. As noted hereinabove, late Sh. Anil Kumar failed to make the payment of the said amount to the respondent within the stipulated period of three months and, therefore, the liability to pay interest accrued before his death as he eventually expired in the month of December, 2020. By the said time, the right of the respondent to receive the interest on the aforesaid amount, as awarded by the learned Family Court, had also been accrued.

10. Evidently, the appellants herein are succeeding to the estate of late Sh. Anil Kumar and thus, they have to meet his liabilities from the amount that they will receive from his estate as his legal successors. The liability in the present case is due to the Decree dated 24.01.2020 passed by the learned Family Court, as mentioned hereinabove. It is not the case of the appellants that the estate is insufficient to meet the said liability. Therefore, merely because there was a delay in the appellants receiving the Letter of Successions, or in the eventual Order being passed by the learned Family Court in the execution petition, the respondent cannot be denied the right which had already accrued in her favour by virtue of the Judgement dated 24.01.2020 passed by the learned Family Court.

11. As far as the submission of the learned counsel for the appellants that the interest awarded is penal in nature is concerned, we



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find that the executing court cannot go behind the decree. The same principle also binds us in this appeal. In *Smt Sudhabai* (supra), the Karnataka High Court was hearing a revision petition against an order by which the respondent no. 3 therein had been directed to pay the interest. The court, on the facts of the said case, found that a direction to pay the interest was not justified. The said judgment cannot have an application where the direction to pay interest has already gained finality. Therefore, the reliance on the said case also comes to no aid as there is no merit in the submission of the learned counsel for the appellants.

12. According, we find no merit in the present appeal. The same stands dismissed as being devoid of any merit.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 21, 2025/p/sm/DG

Click here to check corrigendum, if any