

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC
OF SRI LANKA**

COMMERCIAL LEASING AND FINANCE

(Formerly known and named as Commercial
Leasing and Finance Ltd)

No.68, Baudhdhaloka Mawatha,
Colombo 04.

(New number of company - PO 131/PB/PQ)

SC/CHC/APPEAL/40/2023

HC/CIVIL/267/13/MR

AND NOW

LOLC FINANCE PLC

(Commercial Leasing and Finance PLC
having been amalgamated on 31st March
2022 with LOLC Finance PLC)

No. 100/1, Sri Jayawardenapura Mawatha,
Rajagiriya.

(New number of company - PB244PQ)

Plaintiff

Vs.

1. Payagalage Kamala Muriel Indrani
Perera,
No. 68, Weboda Road, Negombo.
2. Pawuluge Anura Sanjeewa Perera,
No. 68, Weboda Road, Negombo.
3. Pawuluge Omali Sandareka Perera,
No. 68, Weboda Road, Negombo.
4. Wijesingha Arachchilage Sanjeewa
Ruwan Kumara,
No. 7/35, Godella Watta,
Otharawadiya, Katana.

Defendants

AND NOW BETWEEN

1. Payagalage Kamala Muriel Indrani
Perera,
No. 68, Weboda Road, Negombo.
2. Pawuluge Anura Sanjeeva Perera,
No. 68, Weboda Road, Negombo.
3. Pawuluge Omali Sandareka Perera,
No. 68, Weboda Road, Negombo.

1st, 2nd and 3rd Defendant-

Appellants

Vs.

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Plaintiff-Respondent

Wijesingha Arachchilage Sanjeeva

Ruwan Kumara,

No: 7/35, Godella watta,

Otharawadiya, Katana.

4th Defendant- Respondent

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SC/CHC/APPEAL/41/2023

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Ruwan Kumara,
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Otharawadiya, Katana.

Defendants

AND NOW BETWEEN

Wijesingha Arachchilage Sanjeewa

Ruwan Kumara,
No. 7/35, Godella Watta,
Otharawadiya, Katana.

4th Defendant-Appellant

Vs.

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Plaintiff-Respondent

1. Payagalage Kamala Muriel Indrani
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No. 68, Weboda Road, Negombo.
2. Pawuluge Anura Sanjeewa Perera,
No. 68, Weboda Road, Negombo.
3. Pawuluge Omali Sandareka Perera,
No. 68, Weboda Road, Negombo.

1st, 2nd, 3rd Defendant-

Respondents

Before : Janak De Silva, J.
Achala Wengappuli, J.
Menaka Wijesundera, J.

Counsel : Chandrasiri De Silva with Thimalee Sachindrani
instructed by S.N. Rajapaksha for the 1st, 2nd and 3rd
Defendant-Appellants in SC/CHC/APPEAL/40/2023.

Shehan Gunawardena with Sharlon Benedict instructed
by Sithumini Wijayarathne for the Respondent in
both matters.

Written

Submissions : Latest written submissions on behalf of the Plaintiff-
Respondent on the 8th of September 2025.

Argued on : 18.05.2026

Decided on : 24.06.2026

MENAKA WIJESUNDERA J.

The instant two appeals had been filed to set aside the judgements dated 17.03.2023 of the Commercial High Court.

In the case of *SC Appeal 40/2023*, the Appellant is the 4th Defendant in the case filed in Commercial High Court Civil/267/2013/MR and in *SC Appeal 41/2023*, the Appellants are the 1st, 2nd, and 3rd Defendants of the case mentioned as Commercial High Court Civil/267/2013/MR. When this matter was taken up for argument, both parties agreed that one judgment would be sufficient in both cases.

The Plaintiff-Respondent in both matters (hereinafter referred to as the "Plaintiff") had filed an action in the Commercial High Court against the 1st, 2nd, 3rd Defendant-Respondents and the 4th Defendant-Appellant (hereinafter referred to respectively as the "1st Defendant", "2nd Defendant", "3rd Defendant"

and “4th Defendant”) seeking a sum of Rs.15,699,404.93 with legal interest starting from 12.06.2013 until the date of the decree.

Once the trial was concluded, the Commercial High Court delivered the judgement in favour of the Plaintiff on the 17th of March, 2023.

The factual position of the instant case is that the Plaintiff and the 1st Defendant had entered into a loan agreement marked and produced as P2, and the 2nd, 3rd and 4th Defendants had been guarantors for the loan obtained by the 1st Defendant. The said bond had been marked and produced as P7.

The terms of the loan obtained by the 1st Defendant had been,

- I. To pay 60 installments of Rs. 280,549.21 to the Plaintiff on or before the 10th of each month commencing from 10.03.2011
- II. The interest rate per annum had been 16.5%
- III. The overdue interest rate for late payment per annum had been 4%

The securities offered to the loan had been,

- 1) A promissory note for Rs 11,500,000.00 with interest at 16.5%,
- 2) Transfer and retention of absolute ownership of the Toyota Motor Car bearing number WP KN 5280,
- 3) Three personal guarantors to which the 2nd, 3rd and the 4th Defendants had signed in for.

However, the 1st Defendant had defaulted in repaying the loan to the plaintiff. Therefore, the Plaintiff had demanded repayment of the monies due to the plaintiff company from the defendants, but the defendants had not responded to the said letters. Therefore, an action had been instituted against the defendants by the plaintiff.

In the meantime, the Plaintiff had sold the vehicle, which had been held as security for the loan to a 3rd party, and the Plaintiff had credited the cash proceeds towards the Defendants’ outstanding loan balance, as shown in the statement of accounts, according to the Plaintiff.

It was stated that the 1st Defendant obtained the loan in the expectation that the 2nd Defendant, who was employed in Italy, would repay the loan. It was further urged by the counsel of the Defendants that the loan was paid from the month of March to May, but thereafter, she defaulted because the 2nd Defendant had lost his job. Hence, the 1st Defendant has had no way of paying the installments.

Thereafter, the counsel submitted to Court that the 1st Defendant had paid Rs. 5,161,600 to the bank, up to the time of filing the instant action.

The Plaintiff had led the evidence of the Chief Legal Officer of the company, who had marked and produced the loan agreement, the letters of demand, and the statements of accounts.

The position taken up by the Plaintiff before this Court was that, in the instant matter,

- 1) The loan agreement and its terms were not disputed,
- 2) the 2nd, 3rd and the 4th Defendants had signed as guarantors to the loan obtained by the 1st Defendant from the Plaintiff,
- 3) The receipt of money by the 1st Defendant was not disputed,
- 4) The default by the 1st Defendant was also not disputed.

Hence, it was argued by the Counsel for the Plaintiff that the findings of the Commercial High Court judgement were erroneous with regard to the reduction of the default interest, which sought to be reversed and set aside.

However, when I consider the evidence led and the documents marked at the trial in the Commercial High Court, I am compelled to hold that the learned judge had correctly observed that, as the loan and the terms had been agreed upon by both parties, the only matter in dispute was the default payment. However, as the Plaintiff had failed to produce any ledger accounts of the company to justify the high rate of the default interest, the learned judge had correctly ordered a reduction of half of the default payment, which the Plaintiff had challenged in the cross appeals.

The Counsel for the Defendants pointed out to the Court the fact that, in evidence, it had transpired that the 1st Defendant had obtained a loan of Rs. 11.5 million and had agreed to repay the same in 60 installments, each installment being Rs. 285,549.21, but had paid back only up to Rs 4,386,907.10. The plaintiff's position is that the 1st Defendant had kept a motor vehicle as security, which was later sold and credited to the outstanding balance of the 1st Defendant. However, the Defendant's position is that the loan was obtained to purchase the said motor vehicle, and that it was later auctioned to settle part of the outstanding monies owed to the Plaintiff. The Counsel for the Defendants further contended that the Defendants had paid Rs. 1,000,000 as settlement in the Magistrate Court matter, but that amount had not been deducted from the total defaulted amount, and that the Plaintiff was expecting the Defendants to

pay back the default interest at the rate of 4%, as per the loan agreement, which was excessive in view of the payments already made by the 1st Defendant.

However, the learned High Court Judge had analyzed the evidence, facts, and the figures placed before him and had concluded that the default amount should be slashed in half because the Plaintiff had not been able to explain by way of accepted accounting methods, as to how the defaulted amount was calculated.

In any event, on the evidence led and based on *P14*, the learned High Court Judge had concluded that the initial loan agreement had been for Rs. 11.5 million, and the 1st Defendant had paid a sum of Rs. 4.2 million as installments. Later, the motor vehicle relevant to this matter had been auctioned and a further Rs. 11 million had been obtained. When both are added and deducted from the total outstanding, a sum of Rs. 12,590,429.84 still remained outstanding as at 10.09.2016. The default payment for this amount was Rs. 10,372,179.53.

As stated above, the learned trial judge had observed that the mode of calculating the default amount had not been proved by the Plaintiff before the Court. As such, the learned judge had decided that the default amount should be reduced by half and that, as the Magistrates Court settlement was also not reflected in *P14*, it also should be deducted. Accordingly, the learned Judge finally concluded that, as at 10.09.2016, the monies outstanding amounted to Rs. 6,502,152 and that until the final decree was entered, the default interest should be calculated at 4%. However, there's a discrepancy of Rs. 97,811.92 after subtracting half the default and Magistrate settlement from the original outstanding. Even though the final decreed amount is Rs. 6,502,152, the actual calculation sums up to Rs. 6,404,340.

In view of the evidence led and the documents marked and produced by the Plaintiff, the defendants cannot deny payment of what has been obtained as a loan and partially repaid. However, as the Plaintiff had not produced before the Court the basis upon which the calculations in *P14* had been arrived at, the learned Judge had granted concessions to the Defendants while, at the same time, ensuring repayment of the loan due from the Defendants.

Hence, I observe that both sides had obtained relief, the Plaintiff is recovering the monies lent without unjust enrichment, and the Defendants, who cannot evade payment on the material available, have been relieved from unjustifiable payments claimed by the Plaintiff.

As such, I see no merit in the appeals filed by both parties. Hence, the instant appeals are dismissed, and the judgement of the learned Commercial High Court judge is hereby affirmed.

JUDGE OF THE SUPREME COURT

Janak De Silva, J.

I agree.

JUDGE OF THE SUPREME COURT

Achala Wengappuli, J.

I agree.

JUDGE OF THE SUPREME COURT