

Supreme Court: Section 152 CPC Cannot Be Used to Add Markup to a Banking Decree

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Case: M/s. Crescent Spinning Mills Ltd. v. Citibank N.A. and others

Reference: Civil Petition No. 1481-L of 2019

Court: Supreme Court of Pakistan | Decision: 1 June 2026 | Approved for reporting

Bench: Justice Muhammad Ali Mazhar, Justice Musarrat Hilali and Justice Irfan Saadat Khan

Result: Petition converted into appeal and allowed; markup removed from amended decree

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What the Supreme Court decided

The Supreme Court of Pakistan has held that Section 152 of the Code of Civil Procedure, 1908, cannot be used to add statutory markup to a banking decree when doing so changes the substance of the judgment. Section 152 is confined to clerical or arithmetical mistakes and accidental slips or omissions. It is not a substitute for an appeal or review.

In M/s. Crescent Spinning Mills Ltd. v. Citibank N.A. and others, Civil Petition No. 1481-L of 2019, the Court converted the petition into an appeal and allowed it. The Lahore High Court's appellate judgment dated 7 February 2019 and the Banking Court's order dated 23 February 2001 were set aside only to the extent that they allowed markup through an amended decree.

The principal recovery decree was not set aside. The Supreme Court removed the later addition of markup.

The judgment was delivered by Justice Muhammad Ali Mazhar for a three-member Bench comprising Justice Muhammad Ali Mazhar, Justice Musarrat Hilali and Justice Irfan Saadat Khan. It was decided on 1 June 2026 and approved for reporting.

How the banking dispute arose

Crescent Spinning Mills obtained financial facilities from Citibank during 1990-1995 but did not repay according to schedule. Citibank instituted a recovery suit on 13 November 1995 for Rs. 76,241,234.68 under the Banking Tribunals Ordinance, 1984.

The application for leave to defend was dismissed, and the suit was decreed on 15 October 1999. The original adjudication did not grant the claimed liquidated damages.

Citibank later filed CMA No. 568-B of 2000 under Section 152 CPC. It asked the Banking Court to amend the decree by adding markup from the date of institution of the suit until actual realization. On 23 February 2001, the Banking Court allowed that application and amended the decree.

Crescent Spinning Mills challenged the decree. The Lahore High Court dismissed RFA No. 470 of 2000 on 7 February 2019. It reasoned that Section 15 of the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997, required a decree to provide for interest or markup. It also relied on Order XLI Rule 33 CPC as an independent appellate power to make the order that ought to have been made.

The Supreme Court disagreed with both routes.

Which banking law governed the relief

The recovery suit was instituted under the Banking Tribunals Ordinance, 1984. Section 6(4) of that Ordinance required the Tribunal, in the stated circumstances, to pass a decree in favour of the banking company as prayed for in the plaint.

During the suit, the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997, came into force and repealed the 1984 Ordinance. Pending proceedings stood transferred to the competent Banking Court under Section 7(6), and Section 7(7) required the transferee court to continue from the stage already reached.

Section 15(1) of the 1997 Act required a decree to provide for interest or markup on the judgment debt from institution of the suit until payment. Citibank argued that because the 1997 Act was in force when the decree was passed, the omission of markup could be corrected under Section 152 CPC.

The Supreme Court held that transfer of the pending case did not authorize the court to alter the parties' preserved substantive rights and liabilities. Section 6 of the General Clauses Act, 1897, protects accrued rights, obligations, liabilities and pending legal proceedings after repeal unless the new law shows a contrary intention.

The Court therefore held that the suit had to be decided within the legal framework governing it when instituted, so far as substantive rights and available relief were concerned. A procedural change may ordinarily operate retrospectively, but a later law cannot retrospectively prejudice an existing substantive right unless the legislature clearly so provides.

The rule against relief beyond the pleadings

The judgment discusses the doctrines of *infra petita*, *ultra petita* and *extra petita*. For this case, the controlling idea is straightforward: a civil court ordinarily cannot grant a substantive relief outside the case pleaded and the relief claimed.

Order VII Rule 7 CPC requires the plaintiff to state the relief sought. Order II Rule 2 CPC treats an omitted part of a claim according to its own statutory consequences. A general concluding prayer asking for any other relief deemed appropriate does not automatically authorize a court to grant a new substantive relief.

The Supreme Court accepted that an unexpressed or differently framed relief may sometimes be granted where the foundational facts are fully pleaded, proved and consistent with the case already presented. But the power cannot be used to surprise the defendant or create a cause of action that was never put in issue.

The Court relied on *Samar Gul v. Muhammad Firdos*, PLD 1986 SC 35, for the proposition that relief may be granted where all supporting facts are stated and proved even if the precise relief was not separately worded in the prayer. It also referred to authorities emphasizing that a decision cannot rest on a case outside the pleadings.

Order XLI Rule 33 CPC does not create a new case

Order XLI Rule 33 gives an appellate court broad power to pass the decree or order that ought to have been passed. That power exists to do complete justice within the dispute before the court.

The Supreme Court held that the provision allows an appellate court to modify, adjust or even rewrite the decree where the record justifies it. But the court cannot invent a new case, introduce a new cause of action or grant a substantive relief that was never claimed.

Moulding relief is permissible only when it remains anchored in the pleaded facts and evidence. It cannot contradict the governing substantive law or deprive the opposing party of a fair opportunity to answer the claim.

Therefore, the Lahore High Court could not rely on Order XLI Rule 33 to preserve the addition of statutory markup if the Banking Court itself lacked a lawful basis to insert that relief through Section 152 CPC.

Why Section 152 CPC could not add markup

Section 152 CPC permits correction of clerical or arithmetical mistakes and errors arising from an accidental slip or omission. Its purpose is to make the formal judgment or decree accurately express what the court already decided.

It may correct a typographical error in a party's name, an arithmetic mistake, an accidental omission from the decree of relief expressly granted in the judgment, or an undisputed misdescription of property. It does not permit the court to reconsider the merits, change an intentional decision or add a new legal consequence after becoming *functus officio*.

The Supreme Court found that the absence of markup from the original decree was not a minor drafting defect. Adding markup from institution of the suit until realization imposed a

substantial additional financial liability and altered the legal effect of the decree.

The Court explained that where an alleged error arises from a judicial decision or substantive omission, the proper remedy is appeal or review, not an application under Section 152 CPC.

The decision is consistent with *Muhammad Shafi v. Muhammad Boota*, 2004 SCMR 1611, and *Muhammad Tufail v. Ghulam Farid*, 2000 SCMR 1035. Those authorities allow correction when the decree fails to reflect the court's clear intention but do not permit a new adjudication under the label of correction.

The distinction between liquidated damages and statutory markup

This point requires careful reading. The prayer clause reproduced in paragraph 8 of the judgment did seek liquidated damages from 1 October 1995, pendente lite relief and a post-decretal percentage. The original court disallowed the liquidated-damages claim.

Later in the judgment, the Supreme Court stated that the bank had omitted a claim for markup and could not obtain that relief by amendment of the decree. The sound way to reconcile these passages is to distinguish the contractual or damages-based claim pleaded in the suit from statutory markup under Section 15 of the 1997 Act.

The decision should therefore not be cited for the broad proposition that Citibank claimed no interest-type relief at all. The narrower and accurate proposition is that statutory markup under the later 1997 Act could not be inserted through Section 152 after the original claim had been adjudicated and liquidated damages had been declined.

That distinction is important because an opponent may rely on the reproduced prayer to challenge an overbroad reading of the judgment.

Why Shahida Bibi did not save the amended decree

Both sides relied on *Shahida Bibi v. Habib Bank Limited*, PLD 2016 SC 995. That case concerned execution proceedings instituted under the 1984 Ordinance and later transferred after enactment of the 1997 law.

The present judgment treated transfer and continuation of proceedings as different from retrospective creation of a new substantive liability. A new forum or procedure may govern the transferred proceeding, but the transfer provision does not automatically enlarge the decree or create a substantive entitlement that was unavailable or unclaimed under the earlier legal framework.

This distinction should be kept in view when using the judgment in other transitional-law disputes. The Court did not hold that every provision of a new procedural statute is irrelevant to a transferred case. It held that a later enactment cannot be used through Section 152 to rewrite the parties' substantive position.

Final order and its limited effect

The Supreme Court converted the civil petition into an appeal and allowed it.

It set aside:

- the Lahore High Court judgment dated 7 February 2019 in RFA No. 470 of 2000; and
- the Banking Court order dated 23 February 2001 in CMA No. 568-B of 2000;

but only to the extent that those decisions allowed markup by amending the decree.

The original decree for the principal recovery amount otherwise remained unaffected.

Practical guidance for lawyers

For an application under Section 152 CPC, identify the exact words in the judgment showing that the court had already decided the matter but the decree or order failed to record that decision accurately. If the requested change requires new reasoning, reappraisal of the record or alteration of liability, Section 152 is the wrong remedy.

For an objection to an amended decree, compare the plaint, issues, evidence, judgment, decree and correction application. Ask whether the amendment merely makes the decree correspond with an existing adjudication or instead adds a relief that the court never granted.

When relying on Order XLI Rule 33, show that the requested relief arises from pleaded and proved facts, remains within the original controversy and causes no unfair surprise. The provision is broad, but it is not a licence to construct a new case on appeal.

In a dispute involving repeal or replacement of a statute, separate procedure from substance. A new forum or mode of proceeding may apply immediately, while accrued rights and liabilities ordinarily remain protected by Section 6 of the General Clauses Act unless the later statute clearly provides otherwise.

Limits of the judgment

The judgment does not hold that markup can never be awarded in banking litigation. Its result turns on the law governing this suit, the pleaded relief, the original adjudication and the attempted use of Section 152 CPC.

It does not reduce Order XLI Rule 33 to a narrow clerical power. The appellate court retains broad authority to mould relief, but only within the pleaded and proved case.

It also does not prevent correction of a decree where markup was expressly adjudicated in the judgment but accidentally omitted from the formal decree. Paragraph 19 gives that type of situation as an example of a proper Section 152 correction.

The binding point is narrower: Section 152 cannot be used to introduce markup as a new substantive legal outcome after the merits have been decided.

Conclusion

M/s. Crescent Spinning Mills Ltd. v. Citibank N.A. draws a firm line between correction and reconsideration. Courts may correct the written record so that it matches the judgment actually delivered. They may not use Section 152 CPC to add a substantial financial liability that was not part of that adjudication.

The ruling is important for banking recovery cases, execution proceedings and ordinary civil litigation because it connects four principles: courts must remain within the pleadings; appellate powers must remain within the case presented; repeal does not ordinarily destroy accrued substantive rights; and a clerical-correction provision cannot replace appeal or review.

Source and verification note

This article is based on the supplied 18-page judgment in M/s. Crescent Spinning Mills Ltd. v. Citibank N.A. and others, Civil Petition No. 1481-L of 2019, decided on 1 June 2026 and marked approved for reporting. The supplied copy does not state a reported citation.

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