

**SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Ijaz ul Ahsan  
Mrs. Justice Ayesha A. Malik

**CIVIL PETITIONS NO.5718 TO 5720 & 5799 OF 2021**  
**AND**  
**CIVIL PETITION NO.2018-L OF 2021**

[Against the order dated 29.9.2021, passed by the Lahore High Court, Multan Bench, Multan, in FAOs No.93, 117 of 2018, 25, 24 of 2019, respectively]

CP.5718 of 2021	Syeda Nasreen Zohra (deceased) through L.Rs. Vs. Government of the Punjab through Secretary Communication & Works Department, Lahore and others
CP.5719 of 2021	Syeda Nasreen Zohra (deceased) through L.Rs. Vs. Government of the Punjab through Secretary Communication & Works Department, Lahore and others
CP.5720 of 2021	Syeda Nasreen Zohra (deceased) through L.Rs. Vs. Government of the Punjab through Secretary Communication & Works Department, Lahore and others
CP.5799 of 2021	Syeda Nasreen Zohra (deceased) through L.Rs. Vs. Government of the Punjab through Secretary Communication & Works Department, Lahore and others
CP.2018-L of 2021	Government of the Punjab through Secretary Communication & Works Department, Lahore, etc. Vs. Syeda Nasreen Zohra (deceased) through her L.Rs., etc.

For the Petitioner(s) : Mr. Shezada Mazhar, ASC with  
Ch. Akhtar Ali, AOR  
(in CPs.5718 to 5720 & 5799/2021)

For Respondent(s) : Rana Shamshad,  
: Addl. Advocate General, Punjab  
Tahir Shah, Sr. LO, C&W Deptt.  
(in CPs.5718 to 5720 & 5799/2021)

For the Petitioner(s) : Rana Shamshad,  
Addl. Advocate General, Punjab a/w  
Tahir Shah, Sr. L.O., C&W Deptt.  
(in CP.2018-L of 2021)

For Respondent(s) : Shahzada Mazhar, ASC with  
Ch. Akhtar Ali, AOR  
(in CP.2018-L of 2021)

Date of Hearing : 07.02.2022

### JUDGMENT

**AYESHA A. MALIK, J.-** Civil Petitions for Leave to Appeal No.5718 to 5720 and 5799 of 2021 under Article 185(3) of the Constitution of the Islamic Republic of Pakistan, 1973, have arisen out of a consolidated order dated 29.09.2021, passed by the Lahore High Court, Multan Bench, in F.A.O. Nos.93, 117 of 2018 & 25 and 24 of 2019, respectively. Civil Petition for Leave to Appeal No.2018-L of 2021 has been filed by the Government of Punjab against the same impugned order dated 29.09.2021, in FAO No.24 of 2019.

2. The consolidated order essentially deals with the limited question of the period from which the Petitioner is entitled to recover interest at the rate of 8% per *marla* in terms of Section 34 of the Land Acquisition Act, 1894 (**the Act**). The Petitioner is aggrieved by the date of possession i.e. 21.01.1980, as decided in the impugned order and the Government of Punjab is aggrieved by the date from which interest is to be calculated.

3. The basic facts are that a Notification under Section 4 of the Act was issued by the Collector/Deputy Commissioner, Multan on 07.05.1976, which was duly published on 10.12.1976 for land likely to be acquired by the Government of the Punjab

for the construction of the Multan By-Pass in District Multan. Subsequently, a Corrigendum was issued on 18.03.1977 (published in the Punjab Gazette on 21.03.1977) for the inclusion of an additional 15 acres of land, which was owned by the predecessor of the Petitioners No.1A to 1E in Civil Petitions No.5718 to 5720 & 5799 of 2021 and Respondent No.1A to 1E in Civil Petition No.2018-L of 2021 (**the Petitioner**). Another Notification was issued on 21.01.1980 under Section 4(1) of the Punjab Acquisition of Land (Housing) Act, 1973 (**Act of 1973**) for land required by the Multan Development Authority (**MDA**) for the construction of Multan By-Pass Phase-II. In this case, the first Award was announced on 02.10.1980 pursuant to a notification dated 21.01.1980 under the Act of 1973 whereby the Petitioner was allowed compensation at the rate of Rs.20,000/- per acre. The said notification was challenged and ultimately set-aside by this Court vide judgment dated 26.05.1998 wherein it was held that the acquisition for a public purpose could not have been done under the Act of 1973 *ibid*.

4. It was admitted in earlier proceedings of Civil Appeals No.1011 of 2006, etc. before this Court that in the first Award, the compensation was set as Rs.20,000/- per acre to be paid to 108 affectees, from whom the land was being acquired as per their respective entitlements. Later the Award dated 26.08.1998 was issued specifically in respect of the Petitioner and, the compensation was ascertained as Rs.20,000/- per *marla* with 15% compulsory acquisition charges. This dispute was also resolved by this Court vide the *ibid* judgment, pursuant to which,

the Petitioner was entitled to recover interest at the rate of 8% per annum as per Section 34 of the Act.

5. The Petitioners challenged the acquisition proceeding which ultimately was decided such that the controversy between the parties was reduced to the Petitioners entitlement for payment of interest under Section 34 of the Act as no compensation had admittedly been deposited in Court by the MDA. The Award was announced on 26.08.1998 where the Petitioner (deceased) was awarded compensation at the rate of Rs.20,000/- per *marla* with 15% compulsory acquisition charges and the MDA was directed to deposit the compensation accordingly. Admittedly, the MDA did not deposit the said amount. The Award was subsequently reviewed by the Land Acquisition Collector whereby the compensation rate was reduced from Rs.20,000/- per *marla* to Rs.10,000/- per *marla*. The Petitioner challenged the order of review dated 04.10.1998 as did the MDA who challenged the Award as well as the order in review through the Writ Petitions. The order of review dated 04.10.1998 was declared illegal, while the Award was upheld vide judgment dated 25.10.1999. The MDA challenged this decision, which was dismissed in Intra Court Appeal No.229 of 1999 on 08.10.2001. In the meanwhile, the Petitioner filed a Reference under Section 18 of the Act for enhancement of compensation, which was also dismissed vide judgment dated 30.07.2001. Against this judgment, the Petitioner filed RFA No.328 of 2001 and the MDA filed RFA No.366 of 2001. RFA No.366 of 2001 filed by the MDA was dismissed for not being maintainable, while RFA

No.328 of 2001 filed by the Petitioner was not pressed with respect to the claim for enhancement of compensation and instead the claim under Section 34 of the Act was pressed, which the Court did not allow and therefore, dismissed the RFA. Both the Petitioner and the MDA challenged these orders before this Court by filing Civil Appeals No.1011 and 2786 of 2006 and Civil Petition No.538 of 2006, titled Mst. Nasreen Zahra, etc. v. Multan Development Authority, etc., which ultimately resolved the controversy vide judgment dated 07.07.2015.

6. This Court through its judgment dated 07.07.2015 decided that the Award made by the Collector on 26.08.1998 granted the Petitioner compensation at the rate of Rs.20,000/- per *marla*, which amount was neither paid nor deposited by the Respondents. The Petitioner was, therefore, entitled to recover this amount for the land that was acquired. With reference to the issue of payment of interest under Section 34 of the Act, this Court concluded that on making the Award the Collector was bound to tender payment of compensation awarded by him to the person entitled to the Award and in case the Collector was prevented from tendering compensation, he was required to deposit the compensation amount in Court to which the Reference under Section 18 of the Act was made. This Court reasoned that Section 31 of the Act being a mandatory section meant that its non-compliance gave rise to penal consequences and those penal consequences are provided in Section 34 of the Act that is the interest prescribed therein becomes payable. In terms of the judgment of this Court, the Petitioner is entitled to

receive the payment of interest as provided under Section 34 of the Act.

7. The Petitioner now disputes the date of award of interest in terms of Section 34 of the Act, as she contends that she is entitled to compensation from 1979 when allegedly possession of the land was taken from her by the MDA and accordingly, she is entitled to interest under Section 34 of the Act from the same date on account of non-payment by the Collector.

8. The learned Additional Advocate General, Punjab (**AAG**) on behalf of Respondents in Civil Petitions No.5718 to 5720 & 5799 of 2021 and Petitioners in Civil Petition No.2018-L of 2021 (**the Respondents**), on the other hand, have argued that the Petitioner is not entitled to compensation from 1979 as by her own admission in RFA No.328 of 2001, possession was taken on 21.01.1980. In this regard, it is noted that the Government of Punjab in its Civil Petition for Leave to Appeal bearing No.2018-L of 2021 has challenged the date from which interest should be awarded as it is their case that interest should be calculated from the date of announcement of the Award up till 01.04.2017, when the principal amount was deposited by the MDA. They contend that the Petitioner is entitled to receive interest from 1998 to 01.04.2017 when the principal amount was deposited which meant that interest had to be calculated up till the deposit of the principal amount after which it is not due.

9. We have heard the learned counsel for the parties and the learned AAG and perused the available record.

10. So far as the case of the Petitioner on the issue of the date of possession being the relevant date for calculating interest under Section 34 of the Act, we find that the Petitioner by her own admission state that possession was taken on 21.01.1980 as provided in para 2 of RFA No.328 of 2001. Section 34 of the Act provides that where the amount of compensation is not paid or deposited on or before taking possession of the land, compounded interest at the rate of 8% per annum shall be paid from the time of taking possession. The said provision of the Act reads as follows:

**"34. Payment of interest.-** When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with compound interest at the rate of eight per centum] per annum from the time of so taking possession until it shall have been so paid or deposited.

Provided that any waiver of the above right by the landowner shall be void and he shall be entitled to the said interest notwithstanding any agreement to the contrary."

11. The question that arises is when was possession taken from the Petitioner. The claim of the Petitioner that possession was taken before 1980 is without basis as they have mentioned 1976, 1977 and 1979 as the relevant years when possession was taken and yet have admitted in their own RFA that in fact possession was taken on 21.01.1980. Hence to the extent of the Petitions filed by Syeda Nasreen Zohra (deceased) through her L.Rs., we find no merit in the same as the date of possession is admittedly 21.01.1980.

12. With respect to the case of the Government of Punjab in Civil Petition for Leave to Appeal No.2018-L of 2021, the

matter is straightforward. Section 31 of the Act provides for payment of compensation as per the Award, on the making of the Award. Section 34 of the Act provides that where the amount of compensation is not paid or deposited on or before taking possession of the land, compound interest at the rate of 8% per annum shall be paid from the time of taking possession. In this case, the Award was announced on 26.08.1998 where the Petitioner was allowed compensation at the rate of Rs.20,000/- per *marla* with 15% compulsory acquisition charges. This issue was disputed and ultimately resolved by this Court vide judgment dated 07.07.2015 that the Petitioner was entitled to recover interest at the rate of 8% per annum as per Section 34 of the Act. The only issue in dispute now is the period from 21.01.1980 to 26.08.1998 when possession was acquired. It is mentioned in the Award dated 02.10.1980 that possession was already with the Estate branch of the MDA. As such the Respondents were bound to deposit the compensation amount on or before taking possession of the land as envisaged by Section 34 *ibid*.

13. There is nothing on the record to show that the Respondents have paid the outstanding compensation to the Petitioner. After the Award in question had been made, the Collector was bound to tender the payment in question. If the Collector is prevented from doing so, he is, required to tender the same in Court in view of Section 18 of the Act. Reliance in this regard is placed on our earlier judgment dated 07.07.2015, the relevant excerpt of which reads as follows:



“7. It is clear from reading of the provisions of Section 31 that on making of Award under Section 11 of the Act, the Collector is bound to tender the payment of compensation awarded by him to the person entitled thereto according to the Award. In case the Collector is prevented from tendering compensation awarded by him, the Collector is required to deposit the compensation in the Court to which Reference under Section 18 of the Act is made. The compliance of the provision of Section 31 of the Act by the Collector is mandatory for the simple reason that its non-compliance give rise to penal consequences and such penal consequences are those as are provided in Section 34 of the Act i.e. interest prescribed therein will become payable.”

In case the Collector does not make the payment, the Petitioners become entitled to interest as provided in Section 34 of the Act. The payment of such interest is mandatory in nature and its payment could not have been denied to the Petitioner. Reliance in this regard is placed on the case of Sheikh Muhammad Ilyas Ahmed and others v. Pakistan through Secretary Ministry of Defence, Islamabad and others (PLD 2016 SC 64) in which this Court held as followed:

“3. A bare reading of above referred provision of the Act of 1894 reveals that awarding of such interest is statutory in nature, which cannot be withheld. Thus, the appellants are fully entitled for grant of compound interest at the rate of eight percent per annum from the date of taking possession of acquired land till the date of payment of its compensation, but for no valid reasons, such relief has escaped the sight of the two Courts below.” (emphasis supplied)

14. It is an admitted fact that a notification was issued on 21.01.1980 pursuant to which, the first Award dated 02.10.1980 was issued. Possession was also admittedly with the Respondents. As such, the conditions of Section 34 of the Act became applicable. We, therefore, find that from 02.10.1980 till 26.08.1998, the Petitioner was entitled to compensation at

Rs.20,000/- per acre with interest at the rate of 8% per annum since the amount of compensation stood determined which was required to be paid/deposited on taking over possession i.e., on 21.01.1980. This was admittedly not done. Since another Award dated 26.08.1998 was issued with respect to the land of the Petitioner, therefore, the compound interest at the rate of 8% of the total amount of payable compensation, is required to be paid from 26.08.1998 till such time that actual payment of compensation is made.

15. The argument of the learned AAG that compound interest is not payable after the original compensation has been deposited has substance. We find that the compound interest would continue to accrue till such time that the entire compensation is paid in its entirety. Once the original amount has been deposited, the matter goes out of the penal consequences of Section 34 of the Act. However, it would be unfair, unjust and contrary to the policy of the law to put a landowner at an unfair disadvantage for recovery of the accrued amount of compensation and give an unfair advantage to the acquiring department which can delay payment of accrued compound interest indefinitely. This would lead to an absurd situation and could not be the intent of the law. We, therefore, hold that in that event, simple interest would be payable on the amount that has accrued by way of compound interest till such time that the accrued and outstanding compound interest is paid to the person who is entitled to receive compensation for his/her acquired land.

16. In view of the above, Civil Petition No.2018-L of 2021 is converted into Appeal and allowed; and Civil Petitions No.5718 to 5720 and 5799 of 2021 are dismissed and Leave to Appeal is refused.

**JUDGE**

Bench-IV  
Islamabad  
07.02.2022

**JUDGE**

' APPROVED FOR REPORTING '  
Mahtab H. Sheikh/\*