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

**Date of decision : 15.01.2016
FAO-5563-2013 (O&M)**

National Highways Authority of India

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sunil Kumar Sahore, Advocate
Mr. Rishi Kaushal, Advocate,
Mr. Harish Bhardwaj, Advocate
for the appellant(s)-NHAI.

Mr. J.S. Mehndiratta, Advocate,
Mr. H.S. Dhandi, Advocate,
Mr. Vijay Lath, Advocate,
Mr. Arun Bansal, Advocate
for the appellant(s)-landowner(s).

Mr. Piyush Bansal, DAG, Punjab.

Mr. Vipul Dharmani, Advocate,
Mr. Jaideep Verma, Advocate,
Mr. M.S. Longia, Advocate,
Mr. Barlram Singh, Advocate,
Mr. H.K. Brinda, Advocate,
Mr. Vijay Lath, Advocate,
Mr. J.S. Mehndiratta, Advocate,
Mr. G.S. Attariwala, Advocate,
Mr. Naresh Kaushal, Advocate,
Mr. Kuldeep Singh Saini, Advocate,
Mr. Naveen Batra, Advocate,
Mr. Mohit Jaggi, Advocate,
Mr. R.S. Madan, Advocate,
Mr. Ashok Giri, Advocate,
Mr. Sandeep Kumar Sharma, Advocate,
Mr. Ishwar Lal, Advocate,
Mr. H.S. Sitta, Advocate,
Mr. M.S. Virk, Advocate,
Mr. R.K. Shukla, Advocate,
Dr. Puneet Kaur Sekhon, Advocate,

Mr. R.S. Athwal, Advocate and
Mr. Ramneek Vasudeva, Advocate
for the respondent(s).

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

AMIT RAWAL, J. (ORAL)

**CM-25297-CII-2013 in FAO-6151-2013
CM-25304-CII-2013 in FAO-6152-2013
CM-27679-CII-2014 in FAO-10006-2014**

**CM-9775-CII-2014 in FAO-3107-2014
CM-9777-CII-2014 in FAO-3108-2014
CM-9779-CII-2014 in FAO-3109-2014
CM-9781-CII-2014 in FAO-3110-2014
CM-9783-CII-2014 in FAO-3111-2014
CM-9785-CII-2014 in FAO-3112-2014
CM-9787-CII-2014 in FAO-3113-2014
CM-9789-CII-2014 in FAO-3114-2014
CM-9791-CII-2014 in FAO-3115-2014
CM-9793-CII-2014 in FAO-3116-2014
CM-9797-CII-2014 in FAO-3118-2014
CM-9799-CII-2014 in FAO-3119-2014
CM-9801-CII-2014 in FAO-3120-2014
CM-9803-CII-2014 in FAO-3121-2014
CM-9805-CII-2014 in FAO-3122-2014
CM-9807-CII-2014 in FAO-3123-2014
CM-9809-CII-2014 in FAO-3124-2014
CM-9811-CII-2014 in FAO-3125-2014
CM-9813-CII-2014 in FAO-3126-2014
CM-9815-CII-2014 in FAO-3127-2014
CM-9817-CII-2014 in FAO-3128-2014
CM-9819-CII-2014 in FAO-3129-2014
CM-9821-CII-2014 in FAO-3130-2014
CM-9825-CII-2014 in FAO-3132-2014
CM-9829-CII-2014 in FAO-3134-2014
CM-9831-CII-2014 in FAO-3135-2014
CM-9833-CII-2014 in FAO-3136-2014
CM-9836-CII-2014 in FAO-3137-2014
CM-9838-CII-2014 in FAO-3138-2014
CM-9840-CII-2014 in FAO-3139-2014
CM-9842-CII-2014 in FAO-3140-2014
CM-9844-CII-2014 in FAO-3141-2014
CM-9846-CII-2014 in FAO-3142-2014**

**CM-9848-CII-2014 in FAO-3143-2014
CM-9873-CII-2014 in FAO-3166-2014
CM-9876-CII-2014 in FAO-3167-2014
CM-9879-CII-2014 in FAO-3168-2014
CM-9887-CII-2014 in FAO-3174-2014
CM-9892-CII-2014 in FAO-3178-2014
CM-10029-CII-2014 in FAO-3205-2014
CM-10679-CII-2014 in FAO-3479-2014**

Prayer in these applications is for condonation of delay in filing the appeal(s).

For the reasons stated in the application, the delay in filing the appeal(s) is condoned.

CMs stand disposed of.

MAIN CASES

This order of mine shall dispose of FAO-5563-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5564-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5565-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5566-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5567-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5568-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5569-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5570-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5571-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5572-2013 titled as "National Highways Authority of India V/s State of Punjab & others",

FAO-5573-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5574-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5575-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5576-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5577-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5578-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5579-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5580-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5581-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5582-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5583-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5584-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5585-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5586-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5587-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5588-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5589-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5590-2013 titled as "National Highways

Authority of India V/s State of Punjab & others", FAO-5591-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5592-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5593-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5594-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5595-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5596-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5597-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5598-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5599-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5600-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5601-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5602-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5603-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5604-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5605-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5606-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5607-2013 titled as "National Highways Authority of India V/s State of Punjab & others",

FAO-5608-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5609-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5610-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5611-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5612-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5613-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5614-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5615-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5616-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5617-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5618-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5619-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5620-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5621-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5622-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5623-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5624-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-5625-2013 titled as "National Highways

Authority of India V/s State of Punjab & others", FAO-5626-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2344-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2345-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2346-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2347-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2348-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2349-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2350-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2351-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2352-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2353-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2354-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2355-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2356-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2357-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2358-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2359-2014 titled as "National Highways Authority of India V/s State of Punjab & others",

FAO-2360-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2361-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2362-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2363-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2364-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2365-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2366-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2367-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2368-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2369-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2370-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2371-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-2372-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-8642-2014 titled as "Jaswant Singh @ Mohinder Singh & another V/s National Highways Authority of India and others" FAO-2936-2015 titled as "Jaswant Singh @ Mohinder Singh & another V/s National Highways Authority of India and others" FAO-6064-2013 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-6065-2013 titled as "National Highways Authority of India V/s State of Punjab &

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3944-2014 titled as "Harinder Singh V/s National Highways Authority of India and others", FAO-3945-2014 "Harinder Singh V/s National Highways Authority of India and others", FAO-3946-2014 "Harinder Singh V/s National Highways Authority of India and others", FAO-10006-2014 titled as "Kamlesh Kumari and others V/s National Highways Authority of India and others", FAO-3107-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3108-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3109-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3110-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3111-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3112-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3113-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3114-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3115-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3116-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3118-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3119-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3120-2014 titled as "National Highways Authority of India V/s State of Punjab & others", FAO-3121-2014 titled as "National

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The facts are taken from FAO No.5563 of 2013 filed by the National Highways Authority of India and FAO No.2936 of 2015 filed on behalf of the land owners for the enhancement of compensation.

Mr. Sunil K. Sahore, learned counsel appearing on behalf of the appellant(s) submits that the award passed by the Arbitrator was against the public policy and accordingly, the objections were

within the parameters of Section 34 of the 1996 Act. However, the Objecting Court without appreciating the aforementioned facts, dismissed the objections in most erroneous and frivolous manner. The National Highways Authority of India had acquired the strip of land starting from Kurali to Kiratpur Sahib situated at NH-21 for widening of the same by promulgation of Notification under Section 3-A of the National Highway Act, 1956 (hereinafter called 'the 1956 Act') on 14.01.2009, whereas the Notification under Section 3-D of the 1956 Act was published on 17.07.2009. The Assessing Authority assessed the compensation of the land as ₹ 32,000/- per marla irrespective of its nature being agricultural, residential or commercial. However, in the absence of the evidence, the Arbitrator has fallaciously enhanced the amount of compensation by fixing it at ₹ 50,000/- per marla for all types of land, ₹ 65,000/- for residential and ₹ 75,000/- for commercial and ₹ 2,00,000/- as severance charges, over and above, the statutory benefits as envisaged under Land Acquisition Act, 1894 (hereinafter called 'the 1894 Act'). The aforementioned benefits are not permissible as per the judgment rendered by the Division Bench of this Court in '**M/s Golden Iron and Steel Forging V/s Union of Indian and others**' **2011(4) RCR (Civil) 375**, as the matter is under challenge before Hon'ble Supreme Court of India. He further submits that the Arbitrator, while assessing the compensation has also taken into consideration the enhancement/compensation, awarded by the National Highway in respect of land situated in

Village Fattu Chak, District Kapurthala by assessing the compensation at the rate of ₹ 50,00,000/- per acre, which could not be taken into consideration.

Mr. J.S. Mehndiratta, learned counsel appearing on behalf of the land owners, submits that the Arbitrator has assessed the compensation by taking into consideration the commercial rate at the rate of ₹ 64,00,000 per acre, whereas as per the Award, it comes to ₹ 40,000/- per marla and in other Awards which are under challenge in the appeal filed by the National Highway, the compensation has been assessed at the rate of ₹ 75,00,000/- per acre, and therefore, there is a stark difference in the application of mind, much less, assessment of the compensation and thus, the land owners are entitled to enhancement of compensation at par with what the Arbitrator has assessed in other cases.

Learned counsel appearing on behalf of the land owners in other cases filed by the National Highway, submits that the objections were not within the realm under Section 34 of the 1996 Act as the Award of the Arbitrator was perfectly legal and justified and cannot be said to be against the public policy. There is a limited scope of interference in the Awards until and unless, the Award falls within the specific provisions of Section 34 of 1996 Act and thus, prays for dismissal of the appeals filed on behalf of National Highway.

I have heard the learned counsel for the parties and appraised the paper book and as well as record.

No doubt that the Arbitrator has given a passing reference to the enhancement awarded by the National Highway in respect of a land acquired in Village Fattu Chak, District Kapurthala on the basis of enhancement, but has not granted the compensation by relying upon the said Award rather has taken into consideration the collector rate of the Villages situated in the vicinity which has been fixed at the rate of ₹ 51,20,000/- per acre which comes ₹ 32,000/- per marla. The relevant portion of the Award of the Arbitrator reads thus:

"(14) Issues:-

Now before deciding the case following issues needs to be resolved:-

Issue No.1

Whether the petitioner is entitled for enhanced compensation for land acquired?

(If yes then to what extent?)

The petitioner is entitled for enhanced compensation for the reasons given below:-

a) The land is situated on the G.T. Road and have commercial potential. The land is situated near Kiratpur Sahib a historical place connected with 9th & 10th Sikh Gurus. Village Fatehpur Bunga is 3. Kms from historical Gurudwara of Patalpuri (Kiratpur Sahib).

b) Whether the payment was made at the Collector rate by the LAC to the respondents. Nothing is mentioned. The collector rate is never the market rate. The collector rate is the minimum rate fixed by the revenue administration to ensure that there is no evasion of stamp duty. Some time collector rate is revised more than once in a year. The LAC-cum-

Competent Authority did no exercise to determine the market price of land so that there is a reasonable and logical payment of land price to the applicants. In view of this the price paid to the applicants was nowhere near the market price.

Following Collector rate in 2010 from the award of LAC are reproduced below:-

Sr. No.	Name of the village & H.B. No.	Nature of land according to activity	D.C. Rates of that particular type of land (per acre)	Rate of compensation on awarded (per acre)
1.	Fatehpur-320	Commercial	51,20,000	51,20,000
2.	Hardonemoh-318	Commercial	51,20,000	51,20,000
3.	Miyanpur Handoor-317	Commercial	51,20,000	51,20,000
4.	Kalayanpur-346	Commercial	51,20,000	51,20,000
5.	Kiratpur-373	Commercial	51,20,000	51,20,000

Not only this, the Arbitrator also visited the spot and has taken into consideration its order dated 28.01.1990 passed in respect of the land situated in Swara, Tehsil Anandpur Sahib, District Ropar, already implemented by the National Highway, after remand from Hon'ble Supreme Court and assessed the compensation of the land as ₹ 62,500/- per marla. The operative part of the order, in this regard, reads thus:

"The Arbitrator's order dated 28.01.2009 in Dasuya Tehsil already implemented by the NHAI based on the remand order of Supreme Court of India in SLP No.14863-14864/2008, dated 11.08.2008 is kept in view while passing the award in which minimum rate of land is given ₹ 62,500/- per marla (₹ 1 crore per acre). The

NHAI in Dasuya Sub Division (District Hoshiarpur) made payments as follows on award of arbitration (Copy annexed).

<i>Sr. No.</i>	<i>Name of the village</i>	<i>Collector rate/per marla</i>	<i>Payment made by NHAI (on award) per marla</i>
1.	Usman Shahid	4469/-	62,500/-
2.	Chak Kasim	3750/-	62,500/-
3.	Dasuya	50,000/-	2,00,000/-
4.	Kaintha	50,000/-	2,00,000/-
5.	Urmar	2188/-	62,500/-
6.	Rasulpur	13750/-	62500/-/1,50,000/- Chahi/Commercial
7.	Data	12,500/-	62,500/-

- e) As the land is near Kiratpur Sahib and situated at 10KM short of Anandpur Sahib, the birth place of Khalsa it is highly important land from tourism/religious importance. This land is high commercial potential. Thus, the land owners cannot be deprived of their valuable without adequately compensating them.*
- f) If the NHAI have paid 5 times than Collector rate in all cases of Kapurthala District and many times (ranging from ₹ 62,500/- to ₹ 2,50,000/- per marla) in 629 cases of Dasuya Sub Division then why not in this case.*
- g) The enhancement is made in spirit of orders of Hon'ble Supreme Court of India in case mentioned above (No.2010(3) civil court case 673 (SC) Special Land Acquisition Officers V/s Karigowda and others). Thus, enhancement of land rate is justified.*
- h) Form my personal visit and commercial potential of*

land location near Anandpur Sahib the holy Sikh Takhat, the land price at the time of acquisition is presumed to be ₹ 80.0 lac per acre for all types of land 30% more to be paid to residential land and 50% more to be paid if the land is commercial.

i) No yardsticks, no procedure was adopted to fix land rates at time of acquisition. The land being of commercial potential the same needs to be assessed logically. The Collector rate is fixed by collector keeping in view the Govt. Revenue from Registration of sale deeds. It generally varies from 30% to 70% of the market value of the land. For residential the rate will be 30% more and for commercial establishments the land rate will be 50% more as a general rule in the same village and adjoining villages. On my visit, I enquired from people and revenue staff and they told that along the National Highway in village Hardonemoh land price in 2011 was ₹ 80 Lac to ₹ 1.20 crore per acre, depending upon its location. In village Kalaynpur which is adjoining village sale deeds are produced on record sale deed No.108 dated 09.05.2008 of village Jeowal was registered @ ₹ 20 lacs (10.0 marlas). An other sale deed No.268 dated 25.06.2008 was registered @ ₹ 1.50 lac per marla. Sale deed of village Hardonemoh No.512 dated 11.07.2011 @ ₹ 1.0 lac per marla is placed on record. Also Collector rate for Commercial land in village is mentioned as ₹ 32,000/- per malra. Thus to fix land rate @ ₹ 50,000/- per marla is bare minimum 30% rate will be added for residential land and 50% will be added for commercial land. Thus for residential land rate will be ₹ 65,000/- per marla and for commercial land will be ₹ 75,000/- per marla.”

the amount of compensation, has taken into consideration the collector rate and there is no force, much less, substance in the plea raised by Mr. Sunil K. Sahore that amount of compensation has enormously/phenomenonally been increased from what the Assessing Authority had awarded. Accordingly, the aforementioned plea is rejected and the Award of the Arbitrator, viz-a-viz the enhancement of the compensation by taking into consideration the collector rate, is upheld. As regards the plea with regard to awarding of the benefits as envisaged under Sections 23 (2) and 28 of the 1894 Act, I am of the view that as per finding of the judgment rendered by the Division Bench of this Court in **M/s Golden Iron's case (supra)**, while discussing the entire provisions of the 1956 Act, held that the land owners would be entitled for compensation. The operative part of the order reads thus:

"91. As regards the other submissions as to the vires of the National Highway Act, the petitioners' contention that the Amending Act lays down a procedure for acquisition that is an unwarranted departure from the provisions of the Land Acquisition Act and is therefore, illegal and arbitrary, cannot be accepted. There is no rule of law that requires all statutes, providing for acquisition of land to follow the procedure, prescribed under the Land Acquisition Act. As long as the procedure prescribed for acquisition is just and fair and meets the requirements of the expression "authority of law" appearing in Article 300A of the Constitution, procedural provisions cannot be held to be illegal or arbitrary merely because they prescribe a procedure different from the procedure prescribed under the Land Acquisition Act. Section 3-C

(2) of the Act, which confines consideration of objections to the "user" of the land is neither arbitrary nor illegal. Counsel for the petitioners have failed to assert the violation of any legal right that would be infringed by confining adjudication of objections to the "user" of the land. The use of the word "user" in Section 3-C(2) of the Act, in our considered opinion, would not render the provision arbitrary, unjust and illegal.

92. The next submission that despite the absence of any agreement, disputes with respect to compensation are to be compulsorily referred to an Arbitrator exercising powers under the Arbitration and Conciliation Act, 1996, merits rejection. Section 3-H of the Act merely applies to the provisions of the Arbitration and Conciliation Act, 1996 for determining disputes with respect to market value and in essence replaces the Reference Court, as provided under the Land Acquisition Act with an Arbitrator exercising powers under the Arbitration and Conciliation Act, 1996. We are unable to discern any infraction of rights and obligations as would necessitate striking down of the said provision.

93. Another submission that as per the impugned statute does not provide for an appeal and is, therefore, ultra vires cannot be accepted. An appellate forum is an entity, brought into existence by a statute. The right to file an appeal is neither fundamental nor necessary. It is settled law that the absence of an appellate forum or the right to file an appeal does not render a statute unconstitutional. Even otherwise, a claimant would be entitled to challenge the arbitrator's award by invoking the provisions of Section 34 of Arbitration and Conciliation Act, 1996. Thus, the aforementioned submissions, in our considered opinion, do not render the

impugned enactment, arbitrary, illegal or ultra vires of any provisions of the Constitution of India.

94. As we have upheld the legality of the proceedings for acquisition, the writ petitions are dismissed in respect thereof. But as the provisions of Section 3J and 3G are ultra vires of Article 14 of the Constitution of India, all acquisitions made under the National Highway Act, 1956 would necessarily have to grant solatium and interest, in terms similar to those contained in Section 23(2) and Section 28 of the Land Acquisition Act.

The writ petitions stand disposed of accordingly with no orders as to costs."

Since the land owners have been awarded lesser amount of compensation i.e. ₹ 40,000/- by taking into consideration the collector rate at the rate of ₹ 64,00,000/- per acre whereas in the appeals filed by the National Highway, the Arbitrator awarded ₹ 65,000/- per marla for residential, viz-a-viz, ₹ 75,000/- per marla for commercial.

The plea of the National Highway of awarding of interest rate @ 9% for the first year and 18% thereafter, is perfectly in accordance with law and the provisions of sub-Section 7 of Section 31 of the 1996 Act.

There is another aspect of the matter that the Arbitrator in the Award dated 21.04.2012 in FAO No.2936 of 2015, has assessed the compensation by taking into consideration the distances of the villages which were within the radius of 4-23 kms from the Municipal Committee, Atari Bhup Singh and thus, the average of 5 Kms, viz-a-viz, agricultural land at the rate of

₹ 75,000/- per marla and for residential 30% more i.e. ₹ 0.975 Lac per marla and for commercial 50% more ₹ 1.25 Lacs per marla.

The operative part of the order reads thus:-

"j) Sub Divisional Magistrate-cum-Competent Authority, Rupnagar vide his office letter No.723/SDA dated 22.12.2011 has sent report regarding location of the villages as per below:

Sr. No.	Name of village	Distance from Rupnagar City (in Kms)	Distance/location from village to village	Remarks
1	Khusapura	3		
2	Tapaal Majra	4	North side 1 km from Khuaspura	
3	Inderpura	8	North side 4 kms from Tapaalmajra	
4	Sirsa Nangal	9	North side 1 km from Indeprura	
5	Bara Pind	21	North side 12 kms from Sirsa Nangal	
6	Ahmedpur	5	North side 5 kms from Khuaspura	
7	Chaklan	13	South side from Rupnagar	
8	Singh	12	North side 1 km from Chaklan	
9	Himmatpur	10	North side from Rupnagar	

10	Lakhmipur	5	South side from Rupnagar	
11	Chhoti Gando	6	South side 1 km from Lakhmipur	
12	Mianpur Badalian	3	North side from Rupnagar	
13	Ghanauli	10	North side 7 kms from Mianpur Badalian	
14	Kotla Nihang	1	Parallel to Rupnagar	
15	Hussainpur	1	Parallel to Rupnagar	
16	Sukhrampur Tapprain	1	Parallel to Rupnagar	Located in Municipal Limit of Ropar
17	Barri Jhakkian	17	North side from Rupnagar	
18	Behrampur	9	North side from Rupnagar	
19	Malikpur	5	North side from Rupnagar	
20	Rangeelpur	7	North side from Rupnagar	
21	Rajemajra	6	North side 1 km from Rupnagar	
22	Bhagomajra	12	North side 6 kms from Rajemajra	
23	Chhoti Jhakkain	23	North side from Rupnagar	

*Land adjoining to the municipal limit Rupnagar upto the
5 Kms. The land is rated as under:*

1. *Agriculture/vacant plot: ₹ 0.75 lac/marla*

(₹ 1.20 crore/acre)

2. Residential 30% more: ₹ 0.975 lac/marla
(₹ 1.56 crore/acre)
3. Commercial 50% more: ₹ 1.25 Lacs/marla
(₹ 2.0 crore/acre)

I am of the view that amount of compensation awarded is less than what benefit has been given to other similarly situated land owners.

Accordingly, the appeals filed by the National Highways Authority of India are dismissed, Award of the Arbitrator is upheld and the appeals filed by the land owners are allowed and the amount of compensation awarded by the Arbitrator, is enhanced to ₹ 75,000/- per marla for commercial and ₹ 75,000/- per marla for residential. The land owners shall be entitled to all statutory benefits as per the provisions of Sections 23 (2) and 28 of the 1894 Act and the ratio decidendi culled out in the judgment of Hon'ble Supreme Court in **M/s Golden Iron's case (supra)**.

15.01.2016
yogesh

**(AMIT RAWAL)
JUDGE**