

Interpreting Paid and Deposited Pursuant to Section 34 of the Land Acquisition Act of 1894: A Legal and Judicial Analysis

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ABSTRACT

The paper will discuss the law and the judicial interpretation of the sections 31 and 34 of the Land Acquisition Act of 1894 in Pakistan regarding payment of compensation amount to persons interested/land owners on a timely manner. It brings forth legal difference between paid and deposited compensation amounts; where direct payment can be made, the former (paid) compensation is tendered, whereas the latter (deposited) is brought to the competent Court. Section 34 charges penal interest (8% compound in Punjab, 6% simple in KPK and Sindh, whereas 15% simple in Balochistan under section 28) to protect landowners/persons interested on account of delayed payment of compensation amount. By studying the changes in the legislation, procedures and appropriate case law, the article shows that internal transfers of funds to the Treasury do not exempt the Acquiring Agency or Acquiring Authority of interest liability. The paper also highlights the practical implications of delayed compensation, such as financial costs to the exchequer, and offers suggestions on how to ensure that awards are made in time, that the statutory requirements are adhered to, and the capacity building of Land Acquisition officers/officials. Finally, the article underlines that effective application of the Sections 31 and 34 is necessary to fulfill the constitutional right to property, to provide the affected landowners/persons interested with the necessary justice, and the Acquiring Agency fiscal liabilities to the minimum.



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1. Introduction

Compulsory acquisition of land is a sovereign function, but it is accompanied by the obligation to provide just, fair and prompt compensation. Any failure to release the compensation amount on time essentially deprives the landowners/persons interested of both their property and its economic value. This has been statutorily safeguarded by Section 34 of the Land Acquisition Act of 1894 (LAA) and it charges interest on delayed payments. However, pragmatic challenges arise when compensation amount is internally deposited in the government treasury by the acquiring agency and it is put at the disposal of Land Acquisition Collector (LAC) but remains unpaid to the landowners/persons interested due to delays in the announcement of the Award or in release of compensation amount to the landowners/persons interested after announcement of the award by Land Acquisition Collector. The key legal issues to be determined are: i. whether the expression paid means the amounts transferred by the Acquiring Agency to LAC; and ii. whether the transfer of such amounts by the Acquiring Agency to the government treasury was a lawful deposit as contemplated in the Land Acquisition Act of 1894, thereby caused the action to cease the accrual of interest.

2. Legislative History Concerning Section 34

Section 34 of the Land Acquisition Act of 1894 is a statutory protection to the landowners/persons interested which guarantee six per centum per annum interest on compensation amount when it is not paid or deposited by the time the land is taken into possession (Pakistan, 1894, § 34). In Pakistan, every province has the authority to bring amendments in the Land Acquisition Act of 1894 in order to safeguard the rights and interests of its citizens (Pakistan, 1973, art. 142(a), (c)).

In West Pakistan, amendments were introduced in 1969 in the Land Acquisition Act of 1894 by adding 8 per centum compound interest per annum with a proviso (Pakistan, 1969). The province of Punjab has adopted this amendment without any change. However, Khyber Pakhtunkhwa (KPK) introduced amendments by incorporating 6% simple interest per annum without proviso through an amendment in the year 1983 (Pakistan, 1983). The Land Acquisition (West Pakistan Amendment) Act (II) of 1969 was repealed in Sindh and the original section 34 of The Land Acquisition Act of 1894 was restored (Pakistan, 1971). Balochistan omitted section 34 in 1985 (Pakistan, 1985).

3. Statutory Provisions

In Punjab, Section 34 envisages payment of interest in the following manner:

- i. If the compensation amount is not paid or deposited before or by the time the land is taken into possession, the Collector is required to pay interest on the awarded amount.
- ii. The interest shall be calculated at the rate of eight percent per annum.
- iii. The interest shall accrue from the date the land is taken into possession until the compensation is paid or deposited.
- iv. Any waiver of this right by the landowner is invalid and has no legal effect.
- v. The landowner remains entitled to the said interest despite any agreement to the contrary (Pakistan, 1969).

In Khyber Pakhtunkhwa (KPK), section 34 of LAA, 1894 contemplates interest as under:

- i. If the compensation amount is not paid or deposited before or by the time the land is taken into possession, the Collector is required to pay interest on the awarded amount.
- ii. Simple interest at the rate of six percent per annum shall be added to the awarded amount.

- iii. Interest shall accrue from the date the land is taken into possession until the compensation is fully paid or deposited (Pakistan, 1983).

In Sindh, section 34 of LAA, 1894 requires interest in the following manner:

- i. If the compensation amount is not paid or deposited before or by the time the land is taken into possession, the Collector must pay interest on the awarded amount.
- ii. Interest shall be payable on the compensation at the rate of six percent per annum.
- iii. Interest shall accrue from the date the land is taken into possession until the amount is fully paid or deposited (Pakistan, 1894, § 34).

In Balochistan, Section 34 has been omitted (Pakistan, 1985). However, Section 28 of LAA, 1894 has been amended as under:

- a. Additional Compensation shall be paid over and above the market-value compensation fixed under Section 4 of the Act.
- b. Additional compensation shall be 15% per annum of the fixed compensation.
- c. Additional compensation shall accrue from the date of notification under Section 4 until the date the compensation is actually paid (Pakistan, 1985).

The law introduces penal interest or additional compensation amount to ensure that the landowners/persons interested do not suffer due to delays in payment of compensation amount by LAC and compels the competent authorities to remain vigilant to avoid un-necessary delay.

4. Interpretation of Expressions “Paid” and “Deposited” Compensation Amount

The expression “Paid” used in section 34 of LAA, 1894 may be construed as the compensation amount paid to LAC/Land Acquisition Officer/Acquiring Authority by the Acquiring Agency/Government department/Local Authority/Company to acquire land for public purposes or for the Company. On the other hand, the expression “Deposited” means transfer of estimated cost of the land to be acquired into the account of LAC/concerned District treasury. Now we see the veracity of this interpretation in the light of statutory provisions of Land Acquisition Act of 1894 and case laws.

Section 31 LAA, states that once the Award has been made by LAC as contemplated in section 11 of the Act, the compensation amount shall be made to the persons interested/landowners without any delay. Where payment cannot be made due to refusal, dispute, or incapacity to alienate the land, LAC shall deposit the compensation amount in the competent Court (Pakistan, 1894, § 31). It connotes that the term “Paid” refers to the payment of real compensation amount that is paid to the individuals entitled (landowners or claimants or persons interested) by the Land Acquisition Collector/Acquiring Authority. The interest liability ceases on the very date the compensation amount is made by the LAC and received by the persons interested. For instance, if possession is taken on 01-01-2022, and the landowner is actually given the cheque/voucher/compensation amount on 01-01-2024, then interest at 8% compound or 6% simple, as the case may be, per annum is payable from 01-01-2022 to 01-01-2024 only.

The term “deposited” implies that rather than the actual payment to the landowner, compensation amount is deposited in the competent court (usually the Civil Court) under Section 31 of LAA, 1894. This normally occurs in situations where: the landowner refuses to receive compensation; multiple persons claim the same land; the person entitled is incapacitated, either as a minor or otherwise. Once the amount is deposited in the competent Court, the Collector’s liability to pay further interest ceases, even if the

landowners/persons interested do not immediately withdraw it. For instance, if possession is taken on 01-01-2022, but due to a title dispute the LAC deposits the compensation amount in the concerned Court on 01-01-2023, then the interest is payable upto 01-01-2023 only and not beyond, regardless of when the landowners/persons interested actually withdraw the compensation amount.

5. Judicial Interpretation of “Paid” and “Deposited” compensation Amount

Pakistani courts have consistently emphasized on payment of compensation amount to persons interested/land owners or deposit of compensation amount in the competent Court. Scheme of compound interest had been introduced so that unnecessary delay should not occur in the payment of compensation to the landowners after taking possession of land from them (Syed Nafs-e-Nabi & others v. Province of Punjab & others, 2006). The expression used in Section 34 is ‘interest’; it really represents compensation on account of delayed payment of compensation. Therefore, the payment essentially required to be made under Section 34, described as interest, is, in reality and substance, compensation. Thus, the scheme of the Act is that if a person whose land has been acquired and possession taken, he is entitled to, firstly compensation for the land acquired and secondly if the compensation amount is not paid at the time of deprivation of the possession, compensation for the delay in payment of compensation amount for the acquired land. Thus, two types of compensation are contemplated as per the scheme of the Act (SAP Mariyumma v. State of Kerala, 1991).

Based on an analysis of the award given by the Collector, it was found that interest had only been refused in the reason that the appellant had provided prior possession of the land in accordance with a mutual arrangement. This argument is contradictory to the legal requirement. The Land Acquisitions Act in section 34 specifically stipulates that in cases when compensation is not paid or deposited before or by the time of taking possession of the land, the Collector shall pay on the awarded amount an interest at the rate of six per cent per annum, which payment shall be computed between the date when possession was taken and the date of payment or its deposit in the concerned court. In the case before the court, the possession was taken in advance on 19 April 1965 after the payment was made to the land owners to the total sum of Rs. 2, 25,617.58. Later on, the Collector announced an award dated 30 September 1966 whereby decided the total compensation was in the amount of Rs. 4, 56,422.57. Under operation of law, it was held that the appellant is then entitled to the interest on the balance amount of Rs. 2, 30,804, between the date when possession was taken and the date of payment to land owners or deposit in the court. It was determined that there is nothing in the Act which indicates that the statutory right to receive interest is lost just because possession was delivered in advance on a mutual understanding. There is also no documentary evidence to indicate that the appellant had waived its right to interest while agreeing to deliver possession. The denial of the claim to interest was therefore not only inconsistent with the plain words of Section 34 but it did not have any legal justification (Karcharigaon Tea Co. Ltd. v. Collector of Darrang, 1975).

The Land Acquisition Act of 1894 in Section 34 makes it very clear, that where the compensation amount is not paid to the landowner, or is not deposited in the court by the time when the authorities have taken possession of the acquired land, the LAC must pay the interest at 8% per annum upon the awarded amount. This interest accrues on the day of taking possession up to the day of payment or deposition of the compensation. The fact that the interest is obligatory and it has been further reinforced by the proviso that does not permit any waiver of such right by the person owning the land and does not permit any agreement between the parties that is intended to deprive this entitlement. The Court also appreciated the significance of these statutory protections and proceeded a step further to order the Judicial Branch to distribute copies of the judgment to all Land Acquisition Collectors and Deputy Commissioners in the area so that the legal obligation of Section 34 is comprehended and adhered to at all times (Government of Pakistan v. Collector

Land Acquisition/ Settlement Officer, Gilgit, 2006).

In another case, the compensation that was owed to a landowner was denied nearly four years and the denial did not have any legal basis. The Court determined that the award-holder was entitled to eight per cent compound interest on the amount of compensation due to such delay since the award date. As such, the landowner had a right to eight per cent compound interest on the compensation since the award date. The rationale behind this decision was not only based on the statutory framework but also on the general principles of equity, which is that no individual should lose the amount of its property due to administrative delay (*Lal Khan v. Land Acquisition Collector, Sargodha, 1979*).

The interest was to be paid in retrospect as the date of the taking possession of the land by the Collector, until the date on which the excess amount was deposited in the Court. (*Land Acquisition Collector V. Khana Gul, 2018*).

The acquiring department was not only required to deposit the compensation amount with the Collector, but the Collector was also required as per section 34 of the Land Acquisition Act to either disburse the compensation to the landowners/persons interested or deposit the amount before the Referee Court. In this regard, it is immaterial that the amount of compensation was received by the person interested under protest or not because the provision of section 31(2) of the Land Acquisition Act will not be applicable. There are different stages of award of compensation in the Act. Stage one takes place when the award is announced by Land Acquisition Collector. It is obvious that the award must contain all the amounts envisaged in section 23(1) and (2) as well as the interest under section 34 of the Act. LAC pays whole of the compensation amount to land owners/persons interested or deposits in the court as per section 31 of the Act. In this stage, there can be no deficit in payment or in the deposit, as the Collector must make payment or deposit the amount as per award. The stage one concludes when the landowners/persons interested withdraw or accept the amount, with or without protest, or when the Collector deposits the amount, subject to the claimant's right to receive notice of such deposit as per section 31 of the Act. The second stage is initiated when the matter is referred by LAC to the competent court as per section 18 of the Act. When the reference Court awards enhanced compensation, it considers the enhanced amounts payable as per section 23(1) and section 23(2) as well as interest on the enhanced amount as contemplated in section 28 of the Act and costs as per section 27. The Collector is legally bound to deposit all such amounts according to the decree passed by the court. The process enters third stage when appeals are preferred in the High Court against the award or from any part of the award of the court (*Government of Khyber Pakhtunkhwa, Works & Services/Communication & Works Department v. Fazle Wahid Khan, 2014*).

The Collector was liable to pay the compensation amount as provided in S.31 of the Land Acquisition Act of 1894 to the recipient of the award. The Collector was required to provide the compensation amount to the Court to whom Reference had been made as per S. 18 of the Land Acquisition Act of 1894. S. 31 of the said Act requiring the Collector to comply with it was compulsory simply because failure to comply generated penalty consequences in shape of payment of interest as laid down in S. 34 of the same Act. The payment of interest was mandatory. The evidence was lacking that the awarded compensation amount by the Collector was offered to the individual to whom it was due or deposited with the Referee Court, would constitute the claim to get the interest, as conferred by S. 34 of the Land Acquisition Act of 1894 (*Mst Nasreen Zahra v. Multan Development Authority, 2015*; Collector of Land Acquisition, Nowshera v. Fazal Rahim & others, 1984).

Sections 31 and 34 are the two applicable clauses dealing with compensation payment in the Land Acquisition Act of 1894. S.31 (1) of the Act refers actually payment of compensation amount to land owners/persons interested after announcement of Award as per S.11 of the Act. S. 31(2) of the Act requires

LAC to deposit compensation amount in the concerned court if payment cannot be made to the land owners/interested persons in the following situations:

- i. Entitled persons do not consent to receive the compensation.
- ii. Legally competent person is not available to transfer or alienate the land.
- iii. Title dispute arises to receive the compensation amount.
- iv. A dispute arises about apportionment of compensation amount among claimant.

S.34 of the Act becomes operative when compensation amount is not paid or deposited in the concerned court after taking possession of the land. This section requires payment of interest at the rate of 6% per annum starting from the date of taking possession of the land and it continues until compensation amount is paid or deposited.

A bare reading of S.31 of the Act manifest that Collector is under statutory obligation to pay compensation amount before or on taking possession of the land to land owners/persons interested as per award announced by him under S. 11 of the Act. When Collector becomes unable to disburse compensation amount due to the contingencies contemplated in S.31(2) of the Act, he is required to deposit the compensation amount in the concerned court wherein reference has been made as per section 18 of the Act. Noncompliance of the provisions of S.31 leads to penal consequences to pay interest on the awarded compensation amount.

In a case of a land affectee, Mst. Nasreen Zahra, the court observed that the awarded compensation amount by the Collector should have either been paid to the land affectee or deposited in the Reference court where proceedings as per S.18 of LAA, 1894 were pending but such course was not adopted by the Collector and this situation established statutory default. The court held that the land affectee, Mst. Nasreen Zahra, was entitled to get interest as per S.34 of LAA, 1894 from the date of taking possession of the land until compensation amount is paid or deposited in the concerned court (*Mst. Nasreen Zahra v. Multan Development Authority, 2015*).

S.34 of the Act requires the Collector to pay compound interest on the awarded amount at the rate of 8% per annum by the time possession of the land is taken till the date compensation amount is paid or deposited. Even land owner/persons interested cannot waive of this statutory right. The court held that the land owners were entitled to get compound interest from the date of taking possession of the acquired land (*Nisar Ahmad Sabri v. Government of Punjab, 2015*).

The authorities took possession of petitioner's land and compensation amount was paid late. High court passed an order to calculate fresh compensation with interest as per S.34 of LAA, 1894 and the interest will start from the date of taking possession of the land and it will continue till final payment to the petitioner (*Messrs Rabia Rana & Company v. Province of Sindh, 2016*).

The court observed that compensation amount was remained unpaid by the Acquiring Agency to the landowner. The Collector also failed to deposit the compensation amount in the court as required by the law. Limitation or laches cannot bar a claim for compensation when such amount has not been paid. Delay cannot defeat the right of land owner/persons interested to receive compensation amount. The court allowed the petition with direction to Collector to calculate and pay solatium to the petitioner as per Ss. 28-A & 34 of LAA, 1894 starting from the date of notification under S. 4 of the said Act and it will continue till compensation amount is paid within specified period (*Imamuddin Shah v. Deputy District Officer (Rev.) & Land Acquisition Collector, Sanghar, 2005*).

The Collector must pay the compensation amount as per award announced by him or deposit the same in the concerned court if payment cannot be made directly to the land owners. Otherwise, land owners will receive the interest with the compensation amount as per S. 34 of the LAA, 1894. The court held that the petitioners are entitled to receive compensation amount with interest which is mandatory in nature and it

could not have been denied to the petitioners (*Syeda Nasreen Zohra (Deceased) v. Government of the Punjab, 2022; Sheikh Muhammad Ilyas Ahmed & others v. Pakistan through Secretary, Ministry of Defence, Islamabad & others, 2016; Ghulam Ali Shah v. Government of Gilgit-Baltistan, 2022*).

S. 34 of LAA, 1894 requires payment of interest with delayed actual compensation amount from the date of taking possession of the acquired land and it continues to the date Collector makes payment. Penal consequences of S.34 of the Act stop applying as soon as entire actual compensation amount is deposited. (*National Highway Authority v. Mazhar Siddique & others, 2023*).

Interest given in S.34 of the Act cannot be taken as Riba to declare it against the injunctions of Islam and thereby deprive the land owners from its benefits. The main purpose of this section is to ensure payment of compensation amount to the land affectees within shortest possible time and any delay would result in penal consequences under S.34 of the Act. Interest given on delayed compensation amount is beneficial because it makes payment of compensation amount possible in timely manner whereas Riba/usury may be predatory or exploitative in nature (*National Highway Authority v. Rai Ahmad Nawaz Khan & others, 2023*).

All land owners were paid compensation amount on account of acquired land for a public construction project except the petitioner which was an act of discrimination. Constitutional petition was allowed by the High court with direction to revenue department/ acquiring agency to pay compensation amount expeditiously to the land owner/petitioner with benefit of compound interest as per S.34 of the LAA, 1894. (*Ghulam Muhammad Khoso v. Province of Sindh, 2024; Nisar Ahmad Khan & others v. Collector, Land Acquisition, Swabi & others, 2002; Syeda Nasreen Zohra (Deceased) through LRs & others v. Government of Punjab through Secretary Communication and Works Department, Lahore & others, 2022*).

The acquiring agency had taken possession of the land by the time the notification under section 4 of LAA, 1894 was issued on 18-8-1988 whereas LAC announced award on 2-2-2011. The bank statement presented before the court reflected that the compensation was eventually paid on 27-4- 2011. Since this period was not mentioned in the original Award, the Land Acquisition Officer was directed by the court to recalculate it and ensure that interest is paid on the date of taking possession to the date of final payment i.e. 27-4- 2011 (*Ghulam Abbas & others v. IIInd Additional District Judge, Badin & others, 2025*).

The Court passed an order whereby directed that only simple interest should be paid to the land owners. The interest will be calculated by finding the difference between the date on which the acquiring agency assumed possession of the acquired land, and the date on which a payment of the amount of the compensation is made to the land owners or deposited in the Court (*Land Acquisition Collector, Nowshera v. Sarfaraz Khan & others, 2001; Mst Rehmat Bibi & others v. Punnu Khan & others, 1986; Malik Khawaja Muhammad & others v. Marduman Babar Kahol & others, 1987; Muhammad Shafi v. Mushtaque Ahmed through Legal Heirs & others, 1996*).

Land Acquisition Collector announced an award in September 2005. The Land Acquiring Agency, however, did not deposit the compensation amount with the Land Acquisition Collector until January 2006, even though it was legally bound to place the entire amount at the discretion of the LAC prior to announcement of the Award. This default was a breach of the mandatory provisions of law. As a result, the court determined that the landowner was liable to take interest at the rate of six per centum per annum on the market value of the land, calculated from the very date of taking possession of acquired land until the compensation was paid (*Land Acquisition Collector/Officer Pak-Arab Refinery Ltd (PARCO)*),

Shikarpur v. Yaseen Khan & another, 2008; Shoukat Ali & others v. Deputy District Officer & others, 2005; Land Acquisition Collector, Islamabad & another v. Alauddin & others, 2008).

The Legislature had given another check in the form of S. 34 of the Land Acquisition Act of 1894 to curb the leniency by LAC in paying up the compensation amount. In that section, LAC was made legally bound to pay the compensation amount including interest from the time of taking possession of the land to the time of payment to land owners/persons interested or deposit in the competent court. Since the object of section 34 was to be served by the substituted section 28 in full in Baluchistan, the section 34 was completely omitted by the same Amending Act XIII of 1985 that had substituted section 28. This also shows that whether or not any claim is made at any stage before any forum, an owner is entitled to such compensation as of right (Niaz Muhammad & others v. Assistant Commissioner/Collector, Quetta & others, 2005).

The above discussed cases indicate that the right of persons interested/ land owners to interest on delayed compensation cannot be denied simply because the compensation was transferred to the government accounts or deposited in the Treasury. The compensation is not to be made available to the persons interested/land owners until the Award is formally announced. It satisfies the legal requirement only when in fact the compensation amount is made to the land owners/persons interested or it is deposited in the respective Court. This principle strengthens the significance of timely payment of compensation amount and safeguards the financial rights of the persons interested/land owners, and it is evident that the procedure or administrative process cannot be resorted to deprive the persons interested/land owners of their legal rights.

6. Implications for Justice

The failure to announce Award prior to taking possession of land tantamount to denying legal rights of persons interested/land owners of their property and compensation. Interpreting “paid” literally as payment of compensation to land owners/ persons interested and “deposit” literally as Court deposit under Section 31 of Land Acquisition Act, 1894. Pakistani courts make sure that land owners/persons interested are not left without their compensation when their lands are being acquired. The interpretation also promotes the constitutional safeguard of property rights as stipulated in Article 24 of the Constitution in Pakistan.

7. Recommendations

- i. **Disbursement of Compensation Prior to Taking Possession:** Land Acquisition Collector should ensure that before taking possession of the land, compensation is paid to the land owners/persons interested.
- ii. **Strict Compliance with Section 31:** Land Acquisition Collector should make sure that compensation amount is deposited in the concerned Court where direct payment is not possible.
- iii. **Timely Awards:** Land Acquisition Collector is legally bound to have Award announced or to complete the proceedings as per S. 17(4)6 of Land Acquisition Act of 1894 before taking possession of the land to avoid unwarranted accrual of simple or compound interest.
- iv. **Capacity Building:** Land Acquisition personnel should be trained about the legal implications of delay such as the simple or compound interest penalty.
- v. **Reducing Liability of interest by ensuring Timely Compensation:** In case the owners are paid the compensation by the Acquiring Agency on time, the acquiring Agency would be spared of the heavy interests it has to pay due to such a delay.

vi. **Prevention of Statutory Interest by strict enforcement of Section 31:** Once the Award is announced, LAC must pay compensation to the Land owners/ persons interested or it should be deposited in the competent Court. To prevent payment of eight per centum compound interest or six per centum simple interest as stipulated in S. 34 of Land Acquisition Act of 1894, the acquiring agency should insist on LAC to strictly enforce section 31 of the said Act.

8. Conclusion

The Land Acquisition Act of 1894 under S. 34 grants a robust statutory right to the land owners/persons interested by imposing 8% compound interest per annum in Punjab, 6% simple interest in KPK as well as in Sindh whereas S.28 provides 15 % Additional compensation amount in Balochistan. The prudent use of judicial interpretations has strengthened the fact that only the actual payment to the land owners/ persons interested or Court deposit discharges the liability of the Acquiring Agency, whereas only treasury deposits do not serve the purpose. This will not only ensure that the land owners/persons interested are treated fairly, but also remind to the Acquiring Agency/Acquiring Authority how expensive unnecessary delays might become to the public exchequer.

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