

(1986) 08 OHC CK 0018
In the Orissa High Court
Case No : First Appeal No. 32 of 1976

Basudeb Kar and Another	Vs	APPELLANT
State of Orissa and Others		RESPONDENT

Date of Decision : 19-08-1986

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1986) 2 OLR 408

Hon'ble Judges : P.C. Misra, J;B.K. Behera, J

Bench : Division Bench

Advocate : R.K. Mohapatra, S.C. Basa and A. Misra, for the Appellant; Bijan Ray, Government Advocate, for the Respondent

Judgement

B.K. Behera, J.—This appeal has been directed against an award passed by the learned district Judge, Sambalpur, as the arbitrator under the Orissa development of Industries, Irrigation, agriculture, capital construction and resettlement of displaced Persons (Land Acquisition) Act, 1948 (for short, "the Act"). While the claimant had valued Rs. 15,000 and odd as compensation, the learned District Judge has allowed Rs. 8,200 and odd including solatium as the compensation payable to the appellants,. Appearing on behalf of the appellants, Mr. R.K. Mohapatra has contended that regard being had to the evidence form the side of the claimants which was highly stisfactory and as no relance could be placed on the evidance coming from the side of the state, the amount of compensation has been very much on the lower side. the learned government advocate has submitted that regard being had to the evidence adduced by both the sides, it would appear that the amount of compensation is rather on the lower side although the claims set up by the appellants could not be accepted. Upon hearing the learned counsel for both the sides and on a perusal of the evidence and taking a view on the whole, it would be reasonable and proper in our view to award a total compensation of Rs. 12,000/- to the claimants excluding solatium and interest. As regards the payment of solatium and interest, our attention has been invited to the provisions contained in Section 7(1)

(e) of the Act to the effect that the Arbitrator in making the award shall be due regard to the provisions of Sub-section (1) of Section 23 of the Land Acquisition Act, 1894. Section 23 of the Land Acquisition Act provides for payment of solatium On the principles laid down by this Court in ILR 1961 Cut. 451, State of Orissa v. Banamali Babu, and ILR 1965 Cut. 243 State of Orissa v. Banamali Babu, the claimants are also entitled to interest as payable under the Land Acquisition Act, as submitted on their behalf and the learned Government Advocate has not disputed the proposition.

2. In the result, therefore, we would modify the award passed by the learned District Judge and while increasing the amount of compensation to Rs. 12,000/-, direct that the claimants shall be paid solatium and interest as enhanced by the Land Acquisition (Amendment) Act, 1984. In the circumstances of the case, both the parties are to bear their own costs of this appeal.

The appeal is accordingly allowed in part.

P.C. Misra, J.

I agree.