2026 INSC 973

Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.   of 2026
(Arising out of SLP (C) No.27541 of 2024)

Manav Bhanot
...Appellant

Versus

National Highway Authority of India
...Respondent(s)

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. The only dispute herein is as to whether the claim of solatium, interest and interest on solatium, insofar as the acquisition made under the National Highways Act, 1956[1], is to be computed under the Land Acquisition Act, 1894[2] or the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013[3].

[1] Hereinafter referred to as 'the NH Act'
[2] Hereinafter referred to as 'the Act of 1894'
[3] Hereinafter referred to as 'the Act of 2013'

3. Sri Harin P. Raval, learned Senior Counsel appearing for the appellant would rely on ***Union of India & Another v. Tarsem Singh & Others***[4], (*Tarsem Singh-II*). He specifically refers to Paragraph 19 of Tarsem Singh II and points out that in declining the prayer for prospective operation of ***Union of India & Another v. Tarsem Singh & Others***[5] (*Tarsem Singh-I*), this Court has specifically noticed that there could be no differentiation, with respect to the benefit of solatium and interest, between a landowner whose land was acquired on 31.12.2014 and on the very next day i.e.,01.01.2015, the date on which the Ordinance brought into effect the application of the Act of 2013 to the acquisitions under the NH Act. Hence, it is the contention of the appellant, the landowner, that he is entitled to the full benefits under the Act of 2013.

4. Sri Ankur Mittal, learned Senior Counsel appearing for the respondent-NHAI, at the outset, submits that insofar as the decisions of this Court and considering the provisions of the Act of 1894 and the Act of 2013, there can be no dispute that when an acquisition is made under the NH Act, then the landowner is

[4] 2025 SCC OnLine SC 235
[5] (2019) 9 SCC 304

entitled to solatium, interest on compensation and interest on solatium. However, the hitch is insofar as the rate at which these benefits must be calculated whether it be under the Act of 1894 or the Act of 2013. It is his contention that the Act of 2013 was made applicable to the acquisitions under the NH Act only on 01.01.2015 and the award in this case was passed on 11.07.2014 by the Competent Authority. Hence, solatium, interest and interest on solatium must be computed under the Act of 1894. He relies on ***National Highways Authority of India v. Tarsem Singh & Others***[6], (*Tarsem Singh-III*).

5. In rebuttal, without prejudice to his earlier contention, the appellant argues that the award of the Arbitrator was passed on 17.05.2017, after 01.01.2015, in which event the Act of 2013 would be applicable in computing the benefits, even if the contention of the NHAI is accepted.

6. In considering the issue, we have to first notice the amendments made to the NH Act in the year 1997, by Act 16 of 1997, which incorporated a new Section 3 including Section 3A to 3J. Section 3J made inapplicable the Act of 1894 to the acquisitions

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[6] 2026 SCC OnLine SC 481

under the NH Act, which was under challenge before this Court in ***Tarsem Singh-I***, in which, Section 3J was held to be violative of Article 14 of the Constitution of India and thus declared to be unconstitutional.

7. In the background of the present dispute and the interplay of the provisions of the NH Act with the Act of 1894 and the Act of 2013, we need to dwell upon *Tarsem Singh-I* in little detail. Paragraph 10 of the said judgment is extracted hereunder:

> *10. Keeping in view the object of reducing delay and speedy implementation of highway projects, the amended National Highways Act does away with any "award" by way of an offer to the landowner. Post the notification under Section 3-A, objections are to be heard by the competent authority, whose order is then made final. The moment the authority disallows the objections, a report is submitted to the Central Government, and on receipt of such report, the Central Government, by a declaration, states that the land should be acquired for the purpose mentioned in Section 3-A. <u>The important innovation made by the Amendment Act is that vesting is not postponed to after an award is made by the competent authority. Vesting takes place as soon as the Section 3-D declaration is made. One other important difference between the Amendment Act and the Land Acquisition Act is that determination of compensation is to be made by the competent authority under the Amendment Act which, if not accepted by either party, is then to be determined by an arbitrator to be appointed by the Central Government. Such arbitrator's award is then subject to challenge under the Arbitration and Conciliation Act, 1996</u>. Thus, delays in references made to District Judges and*

appeals therefrom to the High Court and the Supreme Court have been obviated. Section 3-G(7) does not provide for grant of solatium, and Section 3-H(5) awards interest @ 9% on the excess amount determined by the arbitrator over what is determined by the competent authority without the period of one year contained in the proviso to Section 28 of the Land Acquisition Act, after which interest is only awardable @ 15% p.a., if such payment is made beyond one year.

8. However it must be said that though vesting occurs on the declaration being made, as emphasised by an underlining in the above extract, possession can only be occasioned after the amount determined by the Competent Authority, under Section 3D is deposited as provided under sub-section (1) of Section 3H. Insofar as the computation of solatium, interest and interest on solatium, there is a marked difference in the Act of 2015 from the Act of 1894, which also has been highlighted in Paragraph 13 in the decision in ***Tarsem Singh-I***; which is extracted hereunder:-

13. The First Schedule to the said Act provides that solatium equivalent to 100% of the market value multiplied by various factors, depending on whether the land is situated in a rural or urban area, constitutes minimum compensation package to be given to those whose land is acquired. The Fourth Schedule to this Act, to be read along with Section 105, expressly includes under Item 7, the National Highways Act, 1956. In Item 9, this Schedule also includes the Requisitioning and Acquisition of Immovable Property Act, 1952. By a Notification dated 28-8-2015 issued under Section 105 read with Section 113 of the 2013 Act, it is provided that *the 2013 Act compensation provisions will apply to acquisitions that take place under the National Highways Act. The result is that both before the 1997 Amendment Act and after the coming into force of the 2013 Act, solatium and interest is payable to landowners whose property is compulsorily acquired for purposes of National Highways. This is one other very important circumstance to be borne in mind when judging the constitutional validity of the 1997 Amendment Act for the interregnum period from 1997 to 2015.*

9. In considering the dispute arising, we must first notice Section 105 of the Act of 2013, which is extracted hereunder:

'105. (1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.
(2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.
(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.
(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one

session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.'

10. By Ordinance 9 of 2014, there was an amendment made to sub-section (3) of Section 105, which is extracted hereinbelow:

> *'(3) The provisions of this Act relating to the determination of compensation in accordance with the First Schedule, rehabilitation and resettlement in accordance with the Second Schedule and infrastructure amenities in accordance with the Third Schedule shall apply to the enactments relating to land acquisition specified in the Fourth Schedule with effect from 1st January, 2015.;'*

11. The above-mentioned amendment stood extended by Ordinance 5 of 2015 and later by a notification, the provisions of the Act of 2013 were made applicable from 19.09.2015. Hence, the contention of the NHAI that, though the Act of 2013 was brought into effect from 01.01.2014, it was made applicable to the NH Act only with effect from 01.01.2015. Thereby the contention is that prior to 01.01.2015 in computing the benefits of solatium, interest and interest on solatium, it must be based on the Act of 1894.

12. In ***Tarsem Singh-II***, the NHAI attempted to seek a clarification to the extent of ***Tarsem Singh-I*** being applied prospectively. The intention was to preclude reopening of cases where land acquisition proceedings have already been completed, and the determination of compensation had attained finality. However, this Court in ***Tarsem Singh-II*** held that granting such clarification would effectively nullify the very relief that ***Tarsem Singh-I*** intended to provide. It was also held in Paragraph 19 as an illustration that there could not be a situation created where solatium and interest would be entitled to a person whose land is acquired on 01.01.2015 but would not be entitled to a landowner whose land was acquired on 31.12.2014. ***Tarsem Singh-I*** reckoned this very malady of solatium and interest not being entitled to acquisitions between 1997 and 2014; i.e.: the date on which Section 3J was incorporated in the NH Act with retrospective effect from 24.01.1997 and the date on which the Act of 2013 came into effect, 01.01.2014. That is why Section 3J was struck down, but that is only to declare the benefit of solatium and interest being applicable across the years and not to determine under which enactment such benefit is to be granted. Hence, ***Tarsem Singh-II*** declined the prayer for prospective application, which would result in hostile discrimination. But the issue agitated here is *res integra,* since even ***Tarsem Singh-III*** was only concerned with the proceedings which had attained finality.

13. Hence, only on and after the date on which the Ordinance brought in application of the Act of 2013 would the statutory benefits contained therein be entitled to landowners whose lands are acquired under the NH Act. The decisions cited does not say that the Act of 2013 is applicable to the awards passed prior to 01.01.2015. The only dictum that can be deciphered from the decisions cited is that the benefit of solatium and interest would be applicable, not only to the landowners whose lands were acquired after 01.01.2015, it would equally be entitled to the landowners whose acquisition was before that date. ***Tarsem Singh-II*** does not lay down as a proposition that solatium and interest before 01.01.2015 would also have to be computed based on the provisions under the Act of 2013, not even from its effect, i.e.: 01.01.2014; since for the acquisitions under the NH Act, the Act of 2013 came into effect only from 01.01.2015. That benefits of solatium and interest are due to even landowners whose lands are acquired on or before 01.01.2015, is unimpeachable, however, the entitlement would be determined as to whether the 'award' was passed before or after 01.01.2015; if before, the entitlement will be under the Act of 1894 and if after, under the Act of 2013.

14. In this context, we should examine the Act of 1894 wherein the acquisition commences with Section 4, *inter alia* providing for publication of a preliminary notification in the Official Gazette and public notice, whereupon an authorised officer is entitled to enter upon the premises and carry out a survey and the ancillary things as provided in sub-section (2). Section 5A enables the landowner to object to the acquisition within 30 days, in the event of which a hearing is mandated before consideration of such objections; further requiring the Collector to furnish his recommendations along with the record of proceedings to the Government. Section 6 mandates a declaration that the land is required for public purpose, which must be made after considering the report of the Collector, within three years from the date of publication of the notification under Section 4(1).

15. The Act of 1894 also provides for an inquiry and award by the Collector as per Section 11, which award shall be made within a period of two years from the date of publication of the declaration, failing which the entire proceedings for acquisition would lapse. Any person interested in the land who does not accept the award made, could, under Section 18, by a written application to the Collector, require reference by the Collector for determination, to the Court, the objections regarding measurement of land, amount of compensation, the persons to whom it is payable and apportionment among the persons interested.

16. Identical are the provisions under the NH Act, but with different timelines considering the expediency in the matter. Section 3A requires a notification to be published by the Central Government in the Official Gazette, with publication in two local newspapers; one of which must be in the vernacular language. Section 3C provides a hearing of objections and Section 3D provides a declaration of acquisition by the Central Government on a report made by the Competent Authority by a notification in the Official Gazette, within a period of one year from the date of publication of the notification under Section 3A, failing which the notification under Section 3A would not have any effect. Section 3E empowers the possession of such property by the Competent Authority, when the land is vested in the Central Government as per sub-section (2) of Section 3D, by virtue of a declaration in sub-section (1) of Section 3D and the amount determined by the

Competent Authority under Section 3G with respect to such land, has been deposited under sub-section (1) of Section 3H. Section 3G provides for the determination of amounts payable as compensation; sub-section (1) empowering the Competent Authority to determine the amount of compensation and pay the same, which under sub-section (1) of Section 3H has to be deposited before taking possession of the land. Akin to a reference under Section 18 of the Act of 1894, any party aggrieved with the amount determined by the Competent Authority under sub-section (5) of Section 3G, can make an application to resolve the dispute by the Arbitrator to be appointed by the Central Government.

17. The conspectus of the decisions cited above juxtaposed with the provisions of the three enactments dealt with, is that insofar as the Act of 2013, which came into effect on 01.01.2014, there was a time of one year provided by Section 105 insofar as its application to the enactments specified in the IVth Schedule; admittedly NH Act is one of such enactments included in that schedule. Section 3J of the NH Act, making inapplicable the provisions of the Act of 1894, which was brought in the year 1997, was declared unconstitutional by ***Tarsem Singh-I.*** As is evident from the dictum a blanket disentitlement to the benefits of Schedules I to III of the Act of 2013 would run afoul the authoritative pronouncement regarding constitutionality. Hence, but for Section 105 of the Act of 2013, it would have become applicable even to the NH Act from the date of its effective operation i.e.01.01.2014. Section 105 extended the period in which it becomes applicable for a period of one year, to those enactments included under Schedule IV, after which, by Ordinances and later by a notification, the Act of 2013 was made applicable to the acquisitions under the NH Act also.

18. In the present case, admittedly the notification with respect to acquisition i.e. under Section 3A was published in the Official Gazette on 07.06.2011 and on 01.07.2011 it was published in an English newspaper and one in Hindi too. Objections were called for under Section 3C (1) and after considering the same, on 20.01.2012, the declaration under Section 3D (1) was published in the Official Gazette, which was also published in two newspapers and a notice was issued on 01.09.2012 to the landowners for determination of compensation. The Competent Authority, NH7 and Sub-Divisional Officer, Jabalpur, determined the compensation by order dated 11.07.2024 wherein a total compensation of Rs.3,47,38,287/- was awarded, which is produced as Annexure P1. The appellant received the amount of Rs.49,17,000/- due to him, on 13.10.2014, which was disputed on quantum and referred for consideration before the Arbitrator, who issued an order dated 13.01.2016 as Annexure P5, which was challenged under Section 34 and Section 37 of the Arbitration and Conciliation Act, 1996; which orders are challenged before us.

19. Now the question arises as to which is the order to be determined as an award under the NH Act for the purpose of attracting the provisions of the Act of 2013. As we noticed from the Act of 1894 and the Act of 2013, the initial determination of compensation as per those enactments, by the Collector, termed to be an award, is respectively under Section 11 and Section 23. Under the NH Act, it is the determination made by the Competent Authority under Section 3G (1). The determination made by the Competent Authority of the compensation under sub-section (1) of Section 3G and the determination of the dispute raised under sub-section (5), by the Arbitrator, under the NH Act are respectively in the nature of the award passed under Section 11 and the determination by a Civil Court, on a reference made to it under Section 18 of the Act of 1894.

20. Section 24(1)(a) of the Act of 2013 reads as under: -

> *"24(1)(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or"*

21. In this context, we must notice the Constitution Bench decision of this Court in ***Indore Development Authority v. Manoharlal and Others***[7], wherein in Paragraphs 366.1 is relevant and is extracted hereunder:

> *'366.1. Under the provisions of Section 24(1) (a) in case the award is not made as on 1-1-2014, the date of commencement of the 2013 Act, there is no lapse of proceedings. Compensation has to be determined under the provisions of the 2013 Act.'*

22. Even going by the Constitution Bench decision, the application of the Act of 2013 arises with reference to the award made, whether it be under the Act of 1894 or the Act of 2013; even if the proceedings for acquisition were commenced prior to 01.01.2014. If an award is made prior to 01.01.2014, the date of effect of the Act of 2013, then the compensation has to be determined under the provisions of the Act of 1894 in the reference under Section 18 of that Act and in any further challenge

[7] (2020) 8 SCC 129

raised, wherein the solatium and interest will be as available under that Act. However, if the award is made after 01.01.2014, obviously, it has to concede to the more beneficial proceedings under the Act of 2013, even if the acquisition proceedings were commenced under the Act of 1894.

23. Insofar as the NH Act is concerned, as we saw, a hiatus of one year was provided for its application. Section 105(1) provided that the enactments included in the IVth Schedule, will not be entitled to the benefits of the Act for a year and sub-section (3) provided for such benefits to be made applicable by a notification after one year. The intention as we discern is to provide a period of one year from the date of effect of the Act of 2013 for the Competent Authority under the NH Act to determine the compensation, deemed to be the initial award, insofar as the acquisition proceedings taken prior to the Act of 2013. If a determination of compensation has not been made before 01.01.2015, then necessarily the Act of 2013 was to apply. But if a determination of compensation is made by the Competent Authority under the NH Act before 01.01.2015, even if it is after 01.01.2014 solatium interest and interest of solatium would be payable under the Act of 1894.

24. In the present case admittedly, the Competent Authority determined the compensation under the NH Act, which is akin to the award under the Act of 1894, passed on 11.07.2014, prior to the Ordinance which made applicable the benefits of the Act of 2013 to the NH Act w.e.f. 01.01.2015. Hence, though, the solatium, interest and interest on solatium is applicable, the same shall be computed based on the provisions of the Act of 1894.

25. An attempt was made to point out the notification brought out by the Ministry of Road, Transport and Highways, produced as Document-A along with I.A No.254333 of 2024, specifically 4.6(c) which is extracted hereunder:

> *'All cases of Land acquisition where the Awards had not been announced under Section 3G of the NH Act till 31.12.2014 or where such awards had been announced but compensation had not been paid in respect of majority of the land holdings under acquisition as on 31.12.2014, the compensation would be payable in accordance with the First Schedule of the RFCTLARR Act, 2013.'*

26. The attempt of the learned Senior Counsel for the appellant is to urge that the majority of the landowners were not paid the compensation as on 31.12.2014. In fact, we must notice that the word employed in the notification is the majority of the '*land holdings*' and not the '*landowners*'. NHAI has taken a contention, as available in Annexure R-1 produced along with the counter affidavit that the total land acquired is 3.080 hectares out of which the compensation for 1.700 hectares was paid in the year 2014 itself. The notification does not help the appellant.

27. We, hence, allow the appeal only to the extent of directing that the compensation as determined by the Arbitration Award, shall be conferred with solatium, interest and interest on solatium as provided under the Act of 1894, for which the matter is remanded to the Competent Authority for the purpose of computation and disbursal by the Government to the appellant herein.

28. Pending application(s), if any, shall stand disposed of.

.......................................J.
(J. B. PARDIWALA)

.......................................J.
(K. VINOD CHANDRAN)

NEW DELHI;
SEPTEMBER 08, 2026.