

**Kader Vs. State of Kerala**

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**Court :** Kerala

**Decided On :** Nov-12-2004

**Reported in :** 2005(1)KLT598

**Judge :** Pius C. Kuriakose, J.

**Acts :** [Land Acquisition Act, 1894](#) - Sections 28

**Appeal No. :** R.P. No. 615 of 2004

**Appellant :** Kader

**Respondent :** State of Kerala

**Advocate for Def. :** P. Deepthi, Government Pleader

**Advocate for Pet/Ap. :** P.K. Aboobacker, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**Pius C. Kuriakose, J.**

1. The claimant/respondent in L.A.A. No. 140/00, which was disposed of by another learned Judge of this Court on 24.3.2004, seeks review of the judgment on the ground that the judgment is vitiated by an error apparent on the face of the

record.

2. It is seen that the learned Judge, notwithstanding the award of Rs. 15,000/- by way of additional compensation towards injurious affection (diminution of land value in respect of the remainder extent of the property belonging to the claimant), has stated that the claimant/respondents will not be entitled to get any interest towards the amount awarded towards injurious affection. It is Section 28 of the Land Acquisition Act which deals with the entitlement of the claimant for interest on the excess compensation awarded by the Land Acquisition Reference Court. It cannot be disputed that the amount which the learned Judge has awarded to the claimant on account of injurious affection will become part of the excess compensation. Learned Judge is certainly right in her view that the amount awarded by way of injurious affection will not be reckoned with for the purpose of solatium or the component under Section 23(1) A since it does not form part of land value. However, having regard to the clear provisions of Section 28, in my view, the amount presently awarded by way of injurious affection is also part of the excess compensation and therefore will carry interest. It is therefore clarified that the amount allowed by way of injurious affection to the claimant/respondent/review petitioner will also carry interest at the statutory rates of 9% during first year and at the rate of 15% thereafter, as provided under Section 28 of the Land Acquisition Act.

The Review Petition is allowed as above.

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