# Bargaining and Litigation with Govt

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Lecture 8

# Litigation: Under or Over-compensation by Courts? I

Consider two parcels of land;

- Parcels A and B - each has area of 100 sq-meters
- Market rates are $R$ for $A$ and $2R$ for $B$

Suppose:

- Govt compensation rates are 1000 per-sq-meter for A and 2000 for B.
- The court compensation rates are 1300 and 2600, respectively.

Incentive to litigate:

- For property A, gains from litigation are Rs 30,000.
- For property B, the gains would be Rs. 60,000!

# Litigation: Under or Over-compensation by Courts? II

However,

**Proposition**

*Compensation payoffs are more favourable for high value properties, i.e.,*

$$\lambda < 1 \Rightarrow \frac{d}{dr}\left(\frac{E^*(r^c \mid r, x, y)}{r}\right) > 0.$$

Therefore,

- If for property A gains from litigation are Rs 30,000,
- then for property B, the gains would be greater than Rs. 60,000!
- If owner of A decides to litigate, so will owner of B - converse is not true

NOTE: In the above example,

# Litigation: Under or Over-compensation by Courts? III

- Compensation can be greater or less than the market value - $R < 1000$ or $R > 1000$ per-sq-meter

**Question**

What type of land-market settings will support the claim in the above claims?

Properties of land-markets

- land market is more active in high value properties
  - Commercial properties, properties near urban areas
- land market is inactive in low value properties
  - Rural and agricultural properties

# Under-compensation: Causes I

In India:

- Land Acquisition Collectors (LACs)
  - do not put-in enough efforts to assess market value
  - want to play it safe, to avoid remarks/objection from seniors or auditors
  - use ‘Circle’ rates for the purpose
- Courts use the value listed in ‘Sale-deeds’ - the registered transactions
- ‘Registry’ or ‘Circle’ rates:
  - The minimum official rates used to tax registration of (voluntary) property transactions
  - The registry tax is imposed on:
    - the actual sale value
    - OR the Registry rates, whichever is higher

# Under-compensation: Causes II

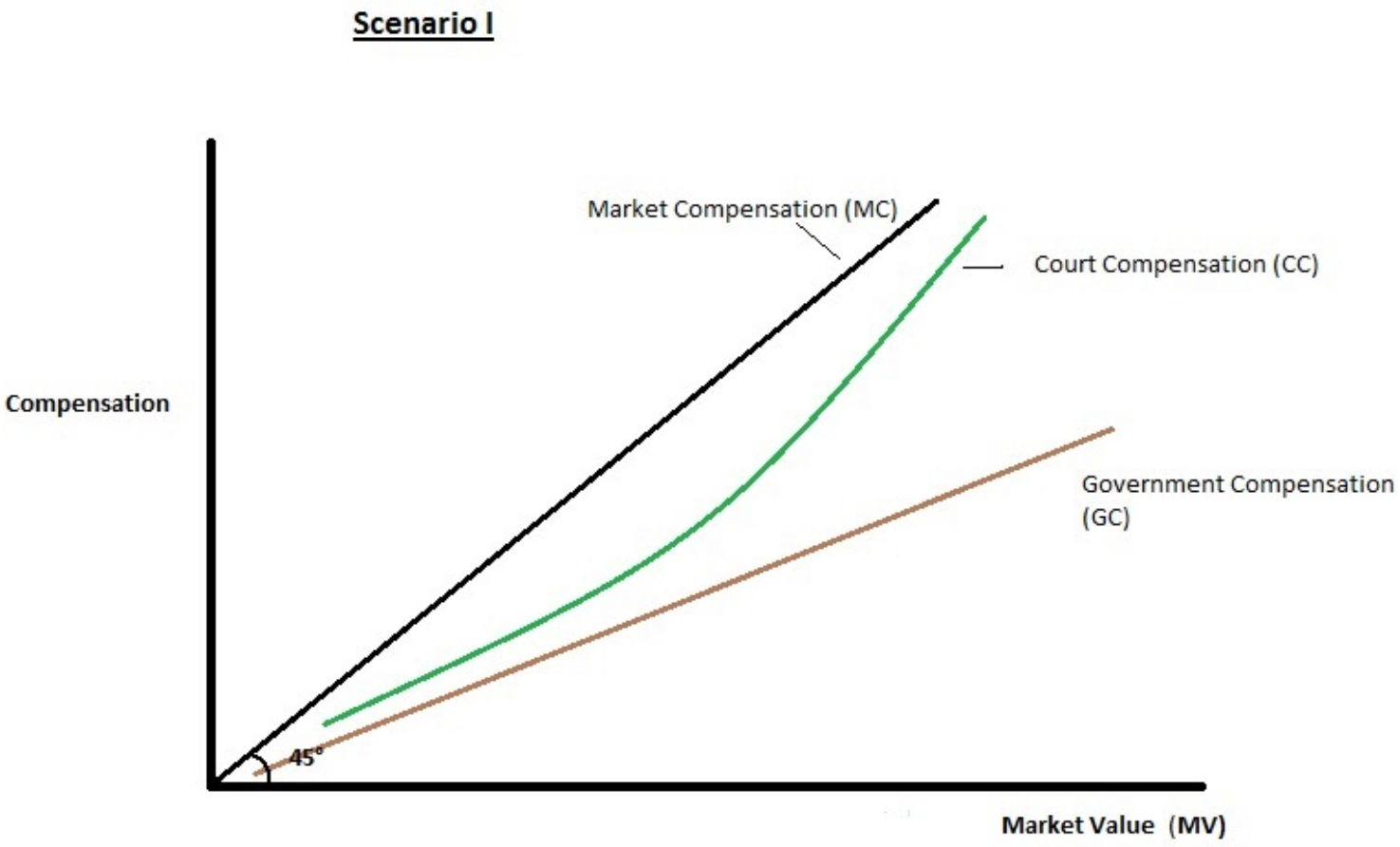
For the above parcels/properties, suppose

- Market values are $R = 1500$ for A and $2R = 3000$ for B
- the Circle-rates are 1000 per-sq-meter for A and 2000 for B.
- Two sale-deeds are available showing rates 1300 and 2600, respectively.
- So, for property A, $r^o = 1000$, $r^c = 1300$.
- For property B, $r^o = 2000$, $r^c = 2600$

*Sale-deeds Versus Registry Rates*

- Sale-deeds rates higher than Registry Rates
- Sale-deeds also under-represent market value
- Sale-deeds are a better proxy for market value

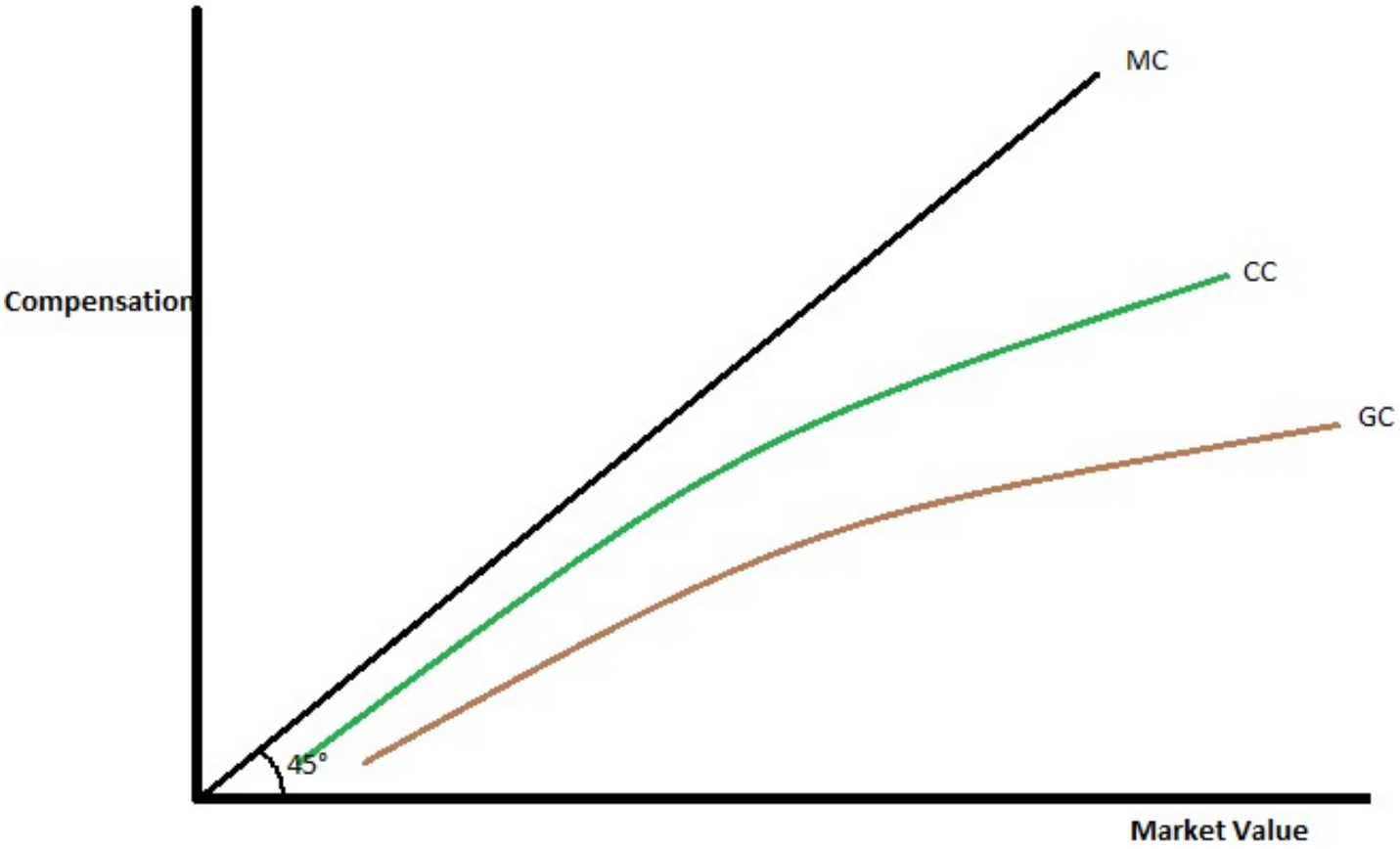
# Under-compensation or Over-compensation?



# Nature of Under-compensation

# Nature of Under-compensation

**Scenario III**



# An Irrigation Project in Haryana

**Project**: Hansi Butana Multipurpose Link Channel

**Length**: 108 kms

**Districts**: Karnal, Kurukshetra and Kaithal

**Villages**: 60

**Land**: Year 2005- Agricultural, irrigated and multiple cropping

**LAC Compensation**: Mostly uniform for a village but varies across villages

**ADJ (lower court) Compensation**: Mostly uniform for a village but varies across villages

**HC (high court) Compensation**: Mostly uniform for a village but varies across villages

# Litigation over Compensation

| VARIABLES | LACcom | LACcom | ADJcom/LACcom | ADJcom | HCcomp/LACcom |
|---|---|---|---|---|---|
| | | | | | |
| Year | 1.30369 | 1.31445 | -0.13029 | 0.69272 | -0.13888 |
| | (0.1814) | (0.1838) | (0.0714) | (0.3409) | (0.0666) |
| | (0.000) | (0.000) | (0.074) | (0.047) | (0.042) |
| Distance | -0.10399 | -0.10497 | -0.10621 | -0.65325 | -0.09895 |
| | (0.0571) | (0.0575) | (0.0224) | (0.1066) | (0.0208) |
| | (0.074) | (0.074) | (0.000) | (0.000) | (0.000) |
| Distance^2 | 0.00430 | 0.00439 | 0.00324 | 0.02134 | 0.00332 |
| | (0.0023) | (0.0023) | (0.0009) | (0.0042) | (0.0008) |
| | (0.062) | (0.059) | (0.001) | (0.000) | (0.000) |
| Land size | 0.00945 | 0.00867 | 0.00281 | 0.02493 | 0.00097 |
| | (0.0044) | (0.0046) | (0.0018) | (0.0086) | (0.0017) |
| | (0.034) | (0.068) | (0.126) | (0.005) | (0.567) |
| Village Population | | 0.00001 | 0.00002 | 0.00009 | 0.00001 |
| | | (0.0000) | (0.0000) | (0.0000) | (0.0000) |
| | | 0.508 | 1.970 | 2.407 | 1.987 |
| Constant | 2,608.37705 | 2,629.97694 | 263.20790 | 1,378.44786 | 280.44458 |
| | (363.6493) | (368.5828) | (143.2353) | (683.4057) | (133.4883) |
| | (0.000) | (0.000) | (0.072) | (0.049) | (0.040) |
| | | | | | |
| Observations | 60 | 60 | 60 | 60 | 60 |
| R-squared | 0.499 | 0.501 | 0.492 | 0.551 | 0.437 |

# Will New Law Reduce Litigation over Compensation?

- Under the existing law multiplier was 1.3, i.e., $M = 1.3$.
- Under the proposed law the Multiplier is 2-4, , i.e., $M \geq 2$

- Under $M = 1.3$
  - For property A, gains from litigation are Rs 39,000. (recall, $r^o = 1000$, $r^c = 1300$)
  - For property B, the gains would be Rs. 78,000! - (recall, $r^o = 2000$, $r^c = 2600$)
- Under $M = 2$
  - For property A, gains from litigation are Rs 60,000.
  - For property B, the gains would be Rs. 156,000!

Further, we know that:

**Proposition**

$$\lambda < 1 \Rightarrow \frac{d}{dM}\left(\frac{E^*(r^c \mid r, x, y)}{r}\right) > 0.$$

# Litigation under Symmetric Uncertainty?

Under following conditions, there can be litigation:

1. Low initial offer is low. This can happen if
   - G has to make initial offer based on a signal of market value of property. However, the signal is noisy.
   - During negotiations the initial offer cannot be changed substantially
     - most states in the US have rules that the official offer cannot be more than 125 percent of the assessed market value
     - officials may fear being accused of corruption.
2. There are judicial delays and incumbent G can pass the burden on its successor
3. Safe play by government officials - use of manuals

If litigation happens the payoffs will be litigation payoffs.

# Counterproductive Protection

Prohibition of Reformatio in Peius:

- The legal doctrine applies to the decision of appeal courts, especially in the civil law countries.
- The court decision should not put the appellant in a position worse than his position before appeal.
- As a result, it is the principle of 'appeal without fear'.

In India, Section 25 of LAA 1894 (amendment, 1984)

- mandates that the court award cannot be less than the LAC awarded compensation.
- litigation by the affected parties is risk-free venture.

Formally, let

$r_{LAC}$ denote the compensation rate offered by the LAC.

# Protective Litigation and its Consequences I

Assume:

- No litigation efforts - no $x$ and $y$
- Only fixed litigation costs

**No Protection**

The expected value of the court award, $E^{NP}(r^c)$

$$E^{NP}(r^c) = \int_{\underline{r^c}}^{\bar{r^c}} r^c f(r^c) dr^c. \tag{1.1}$$

Net gains to the Owner

$$E^{NP}(r^c) = \int_{\underline{r^c}}^{\bar{r^c}} r^c f(r^c) dr^c - x_0 \tag{1.2}$$

# Protective Litigation and its Consequences II

## Proposition

In the absence of *Protection*

- *The executive award:* $r_{LAC}^{NP} = E^{NP}(r^c) - x_0$
- *There is no litigation.*

Under *Protection*, for given $r_{LAC}$, the expected value of the appeal court award is

$$E^P(r^c|r_{LAC}) = \int_{\underline{r^c}}^{r_{LAC}} r_{LAC} f(r^c)dr + \int_{r_{LAC}}^{\bar{r^c}} r^c f(r^c)dr^c. \tag{1.3}$$

Note that

$$E^{NP}(r^c) = \int_{\underline{r^c}}^{\bar{r^c}} r^c f(r^c)dr^c.$$

# Protective Litigation and its Consequences III

- for all $r_{LAC}$, $E^P(r^c|r_{LAC}) > r_{LAC}$.
- Also, from (1.3) note that $E^P(r^c|r_{LAC})$ is an increasing function of $r_{LAC}$.

Since $E^P(r^c|r_{LAC})$ is the cost for the executive branch, it will minimize its cost by choosing $r_{LAC} = \underline{r^c}$.

**Lemma**

When the law applies the doctrine of *Protection*

1. *The executive award $\underline{r^c} = r^P_{LAC} < r^{NP}_{LAC}$. That is, the executive award is lower under the application of the doctrine.*
2. *There is litigation; the awardee will not accept the executive award.*
3. *Compared to the No-protection, both parties are worse off; the outcome is inefficient, due litigation costs.*