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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 15<sup>th</sup> May, 2025*

+ CM(M) 482/2025 & CM APPL. 14757-14758/2025  
RPS INFRASTRUCTURE LIMITED

.....Petitioner

Through: Ms. Shantha Devi, Mr. Raman, Mr.  
Arihant Jain and Ms. Tanisha Gopal,  
Advocates.

versus

ASHWANIDEWAN

.....Respondent

Through: Mr. Shreshtha Kr., Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ JAIN**

**JUDGMENT (oral)**

1. The point raised in the present petition is, though, very short, nonetheless, a very significant one.
2. It is to be seen whether an appeal can be disposed of without giving any opportunity of hearing to the opposite side and to the detriment of the opposite side.
3. A complaint was filed by Mr. Ashwani Dewan before learned State Commission, New Delhi.
4. The learned State Commission, Delhi disposed of the abovesaid complaint *vide* judgment dated 11.11.2024 and as per the operative part, the opposite party (petitioner herein) was directed to refund the entire amount of Rs. 35,21,168/- along with interest. Para 23 and 24 of abovesaid judgment reads as under:-



“23. Keeping in view the facts of the present case and the extensive law as discussed above, we direct the Opposite Party to refund the entire amount paid by the Complainant i.e., **Rs. 35,21,168/-** along with interest as per the following arrangement:

**A. An interest @ 6% p.a. calculated from the date on which each installment/payment was received by the Opposite Party till 11.11.2024 (being the date of the present judgment);**

**B. The rate of interest payable as per the aforesaid clause (A) is subject to the condition that the Opposite Party pays the entire amount on or before 11.01.2025;**

**C. Being guided by the principles as discussed above, in case the Opposite Parties fails to refund the amount as per the aforesaid clause (A) on or before 11.01.2025, the entire amount is to be refunded along with an interest @ 9% p.a. calculated from the date on which each installment/payment was received by the Opposite Party till the actual realization of the amount.**

24. In addition to the aforesaid and taking into consideration the facts of the present case, the Opposite Party is directed to pay a sum of

**A. Rs. 2,00,000/- as cost for mental agony and harassment to the Complainant; and**

**B. The litigation cost to the extent of Rs. 50,000/-.”**

5. Feeling aggrieved by the lesser interest awarded by the learned State Commission, the complainant filed an appeal before the learned National Consumer Disputes Redressal Commission (in short “NCDRC”) which was registered as First Appeal No.982/2024.

6. Undoubtedly, if learned NCDRC does not find any merit in any appeal, it can always dismiss such appeal, *in limine* also but if appeal is to be allowed or allowed in part, issuance of notice becomes imperative. Though as per order dated 27.12.2024, the impression which one would get is that counsel for both the parties were represented and heard and, thereafter, the appeal was disposed of, while also modifying the interest component from 6% per annum to 9% per annum but in fact, there was no notice or appearance from the opposite party. The relevant operative order reads as under:-

“After due consideration of the facts and circumstances of the



*case, the contention of the Appellant as well as the established precedents of Hon'ble Supreme Court the order of State Commission dated 11.11.2024 is modified to the extent that the Opposite Party is directed to pay the Complainant Rs.35,21,168/- along with interest @ 9% per annum from the date of respective deposits till the date of refund, within two months from the date of this order. In the event of delay, the interest payable for the entire period shall be @ 12% per annum. The order for payment of compensation of Rs.2,00,000/- towards mental harassment is set-aside. The Opposite Party shall also pay to the Complainant Rs.50,000/- as costs.*

*All pending applications, if any, also stand disposed of accordingly.”*

7. The grievance of the opposite party (petitioner herein) is to the effect that the appeal was taken up by learned NCDRC for the first time on 27.12.2024 and same day, it was disposed of. She submits that as per specific instructions, the opposite party, at no point of time, received any intimation or notice from the learned NCDRC with respect to the abovesaid appeal.

8. Noticing her such contention, this Court had issued notice to the respondent (complainant) and also made request to the learned Registrar NCDRC to send copies of the proceedings with respect to the abovesaid appeal, through electronic mode.

9. Learned counsel for respondent/complainant, in all fairness, submits that the appeal was taken up by the learned NCDRC for the first time on 27.12.2024. He also admits that by that time, no notice had been issued to the respondent/opposite party and, he also does admit, that after due consideration of the fact, the learned Commission had also modified/increased the interest component, though component of compensation of Rs.2,00,000/- was also set aside.

10. Undoubtedly, after hearing both the sides, learned NCDRC, in a given case, can always modify the interest component. It can be increased or



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decreased, depending on the factual matrix of the case but fact remains that before disposing of the appeal to the detriment of the opposite side, it should have issued notice.

11. Electronic mail has also been received from learned Registrar of NCDRC and even such e-mail indicates that there was only one proceeding with respect to the abovesaid appeal which took place on 27.12.2024.

12. Thus, apparently, there is unilateral decision of the appeal, to the detriment of the opposite party and the interest component has been increased, without giving any opportunity of hearing to the opposite party.

13. In view of the above, the present petition is hereby allowed and while setting aside the order dated 27.12.2024 and while restoring the abovesaid First Appeal No.982/2024, both the parties are requested to appear before the learned NCDRC on 30.05.2025. Learned NCDRC, after hearing arguments from both the sides, would be at liberty to dispose of the appeal afresh, in accordance with law.

14. The pending applications also stand disposed of in aforesaid terms.

**(MANOJ JAIN)**  
**JUDGE**

**MAY 15, 2025/ss/pb**