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

Date of decision: 17.11.2025

+ **O.M.P. (COMM) 255/2025**

ARUN KUMAR BHOWMIK PROPRIETOR M/S AMTECH
ENGINEERS

.....Petitioner

Through: Mr. Rohan Taneja, Mr. Aditya Kapur,
Mr. Raghav Kalra, Mr. Animesh
Dubey, Advs.

versus

FLAT OWNERS ASSOCIATION OF MEDIA MAJESTIC TOWER
(FOAMMT)

.....Respondent

Through: Ms. Purnima Maheshwari, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J (ORAL)**

1. This is a petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 ("***the Act***") seeking to challenge the Award dated 31.05.2025 in the Arbitration titled "*M/S Flat Owners Association of Media Majestic Tower (FOAMMT), Delhi v. M/S Amtech Engineers, Delhi Bearing AC No. 15/2024* (ICA Case No. AC 2254) before the Indian Council of Arbitration.
2. The respondent (Claimant in the Arbitral Proceedings) invited tender for 'Construction of incomplete common area of Majestic Media Tower at Plot No. 14, Khasra No. 350, Bhovapur Village, Kaushambi,



Ghaziabad.' The petitioner (respondent in the Arbitral Proceedings) was awarded the work vide Letter of Intent dated 08.01.2018. Thereafter the parties entered into an Agreement dated 09.01.2018.

3. Since there were disputes between the parties, the respondent invoked the Arbitration Clause and an Arbitrator was appointed. The Sole Arbitrator framed the following issues:

“That vide order dated 24.4.2024 of the Arbitral tribunal, the Issues were framed to be adjudicated upon by the Tribunal. The issues proposed by the Claimant and burden to prove the same will solely lie on the Claimant, proposed the following issues:

- a. Whether the work was assigned was delayed/not completed by the Respondent within time as per the Agreement dated 9.1.2018?*
- b. Whether the work done suffered from deficiencies. completed/left/rectification not done, etc.?*
- c. Whether the Claimant is entitled to penalty of Rs.2, 78,38, 172/-, or any, if so, at what rate and what period?*
- d. Whether the Claimant is entitled to interest @12% from the date of filing of claim i.e.18.10.2021 till payment?*
- e. Whether the Respondent has no cause of action to file the present counter claim after audit reports made with due participation of the Respondent and no claim raised therein?*

The issues proposed by the Respondent and burden to prove the same will solely lie on the Respondent, proposed the



following issues:

- a. Whether the instant contract is Item Rate Tender or Lump sum Contract?*
 - b. Whether the breach of contract has been committed by the Claimant?*
 - c. Whether the delay/prolongation of the Contract is attributable to the Claimant?*
 - d. Whether the Respondent/counter claimant is entitled to get pre-suit, pendente lite and future interest @18% p.a.?*
 - e. Whether the Respondent/counter claimant is entitled to the relief claimed in the counter claim?"*
4. Thereafter the Sole Arbitrator passed an Award dated 31.05.2025, allowing the claims of the respondent to the extent of Rs. 2 crores along with interest. The counter-claims of the petitioner were allowed to the tune of Rs. 1 crore.
 5. Mr. Taneja, learned counsel for the petitioner, has drawn my attention to the Award. He contends that the Sole Arbitrator, in first 111 pages of the Award, has merely extracted portions of the arbitral record, including pleadings and documents, without undertaking any analysis. Thereafter, the Sole Arbitrator has under heading XII on Award page 112 given the heading 'Observations and Conclusions of the Tribunal.'
 6. The Sole Arbitrator in 7-8 pages thereafter i.e., Award pages 114 - 123 has given judgments on consolidation of arbitration. Thereafter, the findings of the Sole Arbitrator begin from paragraph 4 to 6 mentioned on Award page 123. He submits that as no reasons are



recorded, the same is in violation of Section 31(3) of the Act and the Award is liable to be set aside.

7. It is submitted that the Issue wise findings section does not contain any reasoning in support of the conclusions drawn. The Sole Arbitrator has only noted the issues and claims of the parties and has proceeded to dispose of each of them in two or three lines, without discussing the pleadings, documentary material, or evidence on record.
8. Further he submits that the Sole Arbitrator has disregarded Clause 16 of the Agreement and the admission of respondent's witness. He also points out that the Award is self-contradictory as evident from para 4 and 5. It is also submitted that despite expressly noting delays attributable to the respondent revision of drawings, non-clarification of queries, non-verification of executed work, and delayed release of RA Bill payments the Sole Arbitrator has nevertheless awarded sums to the respondent towards alleged delay and deficiencies. No reasoning has been provided to attribute delay or defective work to the petitioner.
9. *Per Contra*, Ms. Maheshwari, learned counsel for the respondent, states that the reasoning has been given under the heading "***XII. Observations And Conclusions of the Tribunal***" and the evidence has also been discussed in para 2. Para 1 of this heading specifically provides reasoning as to how the Sole Arbitrator came to the conclusion that the Contract/Agreement dated 09.01.2018 was a lump sum contract. She further states that that the Sole Arbitrator applied estimated basis/ guesswork where it was difficult to quantify damages



claims of the parties as per ***Cobra Instalaciones Y Servicios, S.A. & Shyam Indus Power Solution (P) Ltd. v. Haryana Vidyut Prasaran Nigam Ltd., 2024 SCC OnLine Del 2755.***

10. I have heard the learned counsel for the parties and perused the material on record.
11. Before dealing with the issues arising in the present petition, it is pertinent to set out the findings of the Award mentioned under the head Observations and Findings. Para Nos. 1, 2, 4, 5 and 6 read as under:

“1. The Arbitration Tribunal is of the considered view that the Contract/ Agreement dt. 9.1.2018 is not in fact, an item rate based contract, as claimed by the Respondent, though BOQ rates were mentioned in the Agreement, but de facto and de jure, it was a lump sum contract, as contended by the Petitioner Claimant, for the various repair and renovation work assigned to the Respondent by the Petitioner Society for being undertaken on the Building Majestic Tower in question. The very fact that consolidated Running Bills were raised by the Respondent Amtech Engineers and were paid by the Petitioner claimant, after due scrutiny, up to 11th RA Bill shows and establishes that the mode of execution of the contract made it a Lump sum Contract with the description of the Work given in the Contract.

2. The Arbitration Tribunal has reached this conclusion relying upon the conduct of the parties, mails and Running Bills placed on record, as also the cross examination



statement of CW-1 Dr. VK Goel and the following case laws about interpretation of clauses of the Contract and actual working and cases of multiple contracts disputes referable to one arbitration, because the very basis of uniformity of the entire economic transaction and not the number or individual clauses of the separate arguments. They emphasize the need to go the real intention of the parties and not only by the terms and tenor of the contract.

...

4. That the Respondent was definitely called upon the undertake some extra works and he did execute the same at the instruction and the directions of the petitioner society and thus under such additional contract or extension of the original contract as was proved by various emails, verification reports and Running Bills produced by the Contractor, the contractor was entitled to additional payment for the same, even though the original Agreement did not specify such additional and the extra work assigned to him.

5. That the Respondent Contractor did not complete the assigned work either as per the terms of the original contract nor the additional work assigned to him and the quality of work was not upto the mark, specially the 10th floor columns in the Building and left several works incomplete like connecting sewerage lines, electrical installations etc. and which caused a breach of contract on



his part and caused inconvenience is the petitioner society and its members.

6. That both the sides have proved their respective case with the help of evidence led by them oral as well as the documentary evidence, and are entitled to partial relief, but all the claims and the entire extent of the respective claims made by them in the Claim petition and the Counter Claim, have not been proved and some of the claims, especially in the various Counter Claims of the Respondent, some claims made by the Respondent are frivolous and unfounded and therefore both the parties are entitled to only the partial relief on their respective Claims, on an estimated basis on a fair and reasonable estimation in the present arbitration proceedings, which are being discussed below issue wise.”

12. It is pertinent to explain the scope of interference at the stage of Section 34 of the Act. In ***OPG Power Generation (P) Ltd. v. Enxio Power Cooling Solutions (India) (P) Ltd., (2025) 2 SCC 417*** the Court held as under:

“Scope of interference with an arbitral award

74. The aforesaid judicial precedents make it clear that while exercising power under Section 34 of the 1996 Act the Court does not sit in appeal over the arbitral award. Interference with an arbitral award is only on limited grounds as set out in Section 34 of the 1996 Act. A possible view by the arbitrator on facts is to be respected as the arbitrator is the ultimate master of the quantity and quality



of evidence to be relied upon. It is only when an arbitral award could be categorised as perverse, that on an error of fact an arbitral award may be set aside. Further, a mere erroneous application of the law or wrong appreciation of evidence by itself is not a ground to set aside an award as is clear from the provisions of sub-section (2-A) of Section 34 of the 1996 Act.

75. In Dyna Technologies [Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd., (2019) 20 SCC 1, paras 27-43] , a three-Judge Bench of this Court held that courts need to be cognizant of the fact that arbitral awards are not to be interfered with in a casual and cavalier manner, unless the court concludes that the perversity of the award goes to the root of the matter and there is no possibility of an alternative interpretation that may sustain the arbitral award. It was observed that jurisdiction under Section 34 cannot be equated with the normal appellate jurisdiction. Rather, the approach ought to be to respect the finality of the arbitral award as well as party's autonomy to get their dispute adjudicated by an alternative forum as provided under the law.

76. Now, we shall examine the scope of interference with an arbitral award on ground of insufficient, or improper/erroneous, or lack of, reasons.

Reasons for the award — When reasons, or lack of it, could vitiate an arbitral award



77. Section 31(3) [“31. Form and contents of arbitral award.—(1)-(2) * * *(3) The arbitral award shall state the reasons upon which it is based, unless—(a) the parties have agreed that no reasons are to be given, or(b) the award is an arbitral award on agreed terms under Section 30.”] of the 1996 Act provides that an arbitral award shall state reasons upon which it is based, unless:

(a) the parties have agreed that no reasons are to be given, or

(b) the award is an arbitral award on agreed terms under Section 30.

...

79. On the requirement of recording reasons in an arbitral award and consequences of lack of, or inadequate, reasons in an arbitral award, this Court in Dyna Technologies [Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd., (2019) 20 SCC 1, paras 27-43] held : (SCC p. 14, paras 34-35)

“34. The mandate under Section 31(3) of the Arbitration Act is to have reasoning which is intelligible and adequate and, which can in appropriate cases be even implied by the courts from a fair reading of the award and documents referred to thereunder, if the need be. The aforesaid provision does not require an elaborate judgment to be passed by the arbitrators having regard to the speedy



resolution of dispute.

35. When we consider the requirement of a reasoned order, three characteristics of a reasoned order can be fathomed. They are : proper, intelligible and adequate. If the reasonings in the order are improper, they reveal a flaw in the decision-making process. If the challenge to an award is based on impropriety or perversity in the reasoning, then it can be challenged strictly on the grounds provided under Section 34 of the Arbitration Act. If the challenge to an award is based on the ground that the same is unintelligible, the same would be equivalent of providing no reasons at all. Coming to the last aspect concerning the challenge on adequacy of reasons, the court while exercising jurisdiction under Section 34 has to adjudicate the validity of such an award based on the degree of particularity of reasoning required having regard to the nature of issues falling for consideration. The degree of particularity cannot be stated in a precise manner as the same would depend on the complexity of the issue. Even if the court comes to a conclusion that there were gaps in the reasoning for the conclusions reached by the Tribunal, the court needs to have regard to the document submitted by the parties and the contentions raised before the Tribunal so that awards with inadequate reasons are not set aside in casual and cavalier manner. On the other hand, ordinarily unintelligible awards are to be set aside, subject to party



autonomy to do away with the reasoned award. Therefore, the courts are required to be careful while distinguishing between inadequacy of reasons in an award and unintelligible awards.”

80. *We find ourselves in agreement with the view taken in Dyna Technologies [Dyna Technologies (P) Ltd. v. Crompton Greaves Ltd., (2019) 20 SCC 1, paras 27-43] , as extracted above. Therefore, in our view, for the purposes of addressing an application to set aside an arbitral award on the ground of improper or inadequate reasons, or lack of reasons, awards can broadly be placed in three categories:*

- (1) where no reasons are recorded, or the reasons recorded are unintelligible;*
- (2) where reasons are improper, that is, they reveal a flaw in the decision-making process; and*
- (3) where reasons appear inadequate.*

81. *Awards falling in Category (1) are vulnerable as they would be in conflict with the provisions of Section 31(3) of the 1996 Act. Therefore, such awards are liable to be set aside under Section 34, unless:*

- (a) the parties have agreed that no reasons are to be given, or*
- (b) the award is an arbitral award on agreed terms under Section 30.*

82. *Awards falling in Category (2) are amenable to a*



challenge on ground of impropriety or perversity, strictly in accordance with the grounds set out in Section 34 of the 1996 Act.

83. Awards falling in Category (3) require to be dealt with care. In a challenge to such award, before taking a decision the Court must take into consideration the nature of the issues arising between the parties in the arbitral proceedings and the degree of reasoning required to address them. The Court must thereafter carefully peruse the award, and the documents referred to therein. If reasons are intelligible and adequate on a fair reading of the award and, in appropriate cases, implicit in the documents referred to therein, the award is not to be set aside for inadequacy of reasons. However, if gaps are such that they render the reasoning in support of the award unintelligible, or lacking, the Court exercising power under Section 34 may set aside the award.”

13. A perusal of the Award demonstrates that the Sole Arbitrator has not undertaken any meaningful analysis of the material on record and has therefore failed to satisfy the mandate of Section 31(3) of the Act. Although the Award extends to approximately 130 pages, a substantial portion of it nearly the first 111 pages merely reproduces the pleadings of the parties, the cross-examination excerpts, and written submissions without any corresponding analysis.
14. After page 112, the Award has headings “Observations and Conclusions” followed by the “Issue-Wise Findings,” yet these



findings are unsupported by any reasoning. The Sole Arbitrator cites several judgments such as *Johnson Controls Hitachi Air Conditioning India Ltd. v. M/S. Shapoorji Pallonji And Company Pvt Ltd.*, AP-COM/315/2025, *Chloro Controls India (P) Ltd. v. Severn Trent Water Purification Inc.*, (2013) 1 sec 641 and *Godrej & Boyce Mfg. Co. Ltd. Vs. Shapoorji Pallonji & Co. P. Ltd.*, (2023) sec Online Cal 1120 and merely reproduces long portions of these decisions without correlating their principles to the facts of the present case.

15. The discussion on composite reference and consolidation of arbitrations is entirely on a different tangent and has no nexus with core issues in the Arbitration dispute such as whether the contract was item-rate or lump-sum, whether extra works were properly directed, whether the contractor completed the work, or whether the respondent society committed any breach.
16. With regard to para 1, 2, 4 and 5 which have been relied by the learned counsel for the respondent to state that the Award is reasoned, I am of the view that the Sole Arbitrator has simply given the said finding based on surmises and conjectures. Although it is mentioned that the conclusion has been reached on the basis of the conduct of the parties, mails, running bills and cross examination, it is not mentioned specifically which documents say the same.
17. Even the finding of the Sole Arbitrator that the Contract was a lump sum contract suffers from perversity as material evidence has been omitted. No relevant portion of cross examination of CW- 2 is produced, wherein in the answer to Question 8 it is clearly admitted that the Contract was an item rate Contract. The same reads as under:



“Q. 8 Were contract for payment on item rates?”

Ans. Yes”

18. The same is also evident from Clause 16 of the Contract which reads as under:

“16. M/S Amtech Engineers represented by Mr Arun Kumar Bhowmik will undertake the work of balance construction at MMT as per the item rates finally agreed for the common civil works/Electrical & Plumbing including elevators for working in Common Areas only. Interiors of flats are not governed and covered in this Contract. The contractor will give the further rates for the work not covered in this estimate, as may be demanded.”

19. These facts go to the core of the dispute. Yet, the Award is completely silent on both the admission of CW-2 and the implications of Clause 16 of the Contract.
20. The Sole Arbitrator is indeed entitled to undertake a different view that the Contract was not an item rate but a lump sum contract however the basic requirement of law requires the Sole Arbitrator to give reasons for his finding. The Sole Arbitrator cannot be seen to be autocratic in passing an Award and give findings without reasons. The non-consideration of material evidence amounts to perversity and renders the Award liable to interference as held in ***Associate Builders v. DDA, (2015) 3 SCC 49.***
21. The Award not only suffers from perversity as it is bereft of any reasoning but also has contradictory reasoning. In para 4 the Sole Arbitrator gave a finding that the petitioner did execute the extra work



at the instructions of the respondent, but in Para 5 the Sole Arbitrator states that that the petitioner did not complete the assigned work or the additional work which caused the breach of Contract.

22. Thus, although the Award is voluminous, the issues have been decided without any cogent reasoning, objective evaluation of evidence, rendering the findings arbitrary and unreasoned. The same is evident from para 6 which reads as under:

“6. That both the sides have proved their respective case with the help of evidence led by them oral as well as the documentary evidence, and are entitled to partial relief, but all the claims and the entire extent of the respective claims made by them in the Claim petition and the Counter Claim, have not been proved and some of the claims, especially in the various Counter Claims of the Respondent, some claims made by the Respondent are frivolous and unfounded and therefore both the parties are entitled to only the partial relief on their respective Claims, on an estimated basis on a fair and reasonable estimation in the present arbitration proceedings, which are being discussed below issue wise.”

23. A perusal of the issue-wise findings contained in Chapter XIII of the Award further reinforces that the Sole Arbitrator has rendered conclusions without any supporting reasoning, analysis, or evaluation of evidence. For each framed issue, the Sole Arbitrator merely records a one-line conclusion such as holding that the work was delayed, that deficiencies existed, that the contract was lump-sum, that the respondent was entitled to raise a counterclaim, or that certain sums



were payable without undertaking any discussion of the pleadings, the testimony of witnesses, or the documents relied upon by the parties.

24. The issue wise finding is as under:

“XIII. ISSUE WISE FINDINGS OF THE ARBITRAL TRIBUNAL 1. The issues proposed by the Claimant and burden to prove the same was on the Claimant.

a. Whether the work was assigned was delayed/not completed by the Respondent within time as per the Agreement dated 9.1.2018?

Finding of Tribunal: *Yes, the work assigned to Respondent including the extra work was delayed and not completed by the Respondent in terms of the Agreement dt.9.1.2018 and additional and extra work assigned later on and certain works were left incomplete. The issue is thus decided in favour of the Claimant.*

b. Whether the work done suffered from deficiencies i.e. completed/left/rectification not done, etc.?

Finding of Tribunal: *Yes, the work performed by the Respondent was not up to the mark and as specified and the verification reports placed on record proves that. The issue is accordingly decided in favour of the Claimant.*

c. Whether the Claimant is entitled to penalty of Rs.2, 78,38, 172/-, or any amount, if so, at what rate and what period?

Finding of the Tribunal: *No. The Claimant is not entitled to recover the whole of the amount claimed of Rs.2,78,38, 172/-which is mainly on account of penalty clause in the*



Agreement and for the delay caused in the execution of the works, because Petitioner Society also has contributed to some extent to the delay in the work by changing the drawings and specifications of the work during the execution of the work and the Respondent alone cannot be blamed for the delay in the work, but the Respondent is largely responsible for the said delay and deficiencies in the work done. The Petitioner society is therefore held entitled to the overall compensation of Rs.2,00,00,000/- (Rs. Two Crores) on ad-hoc and fair estimation basis on account of delay in the execution of the works and the defects and deficiencies in the work executed by the Respondent and damages for some works left incomplete by the Respondent.

- d. Whether the Claimant is entitled to interest@12% from the date of filing of claim i.e.18.10.2021 till payment?*

Finding of the Tribunal: *The rate of interest of 12% claimed by the Petitioner Society is on higher side. The same is reduced to 6% p.a. simple interest payable from the date of Award till the actual payment. The rate of interest of 6% will be applicable to both sides on their respective partial reliefs granted by this Tribunal. The issue is accordingly partly decided in favour of the Claimant.*

- e. Whether the Respondent has no cause of action to file the present counter claim after audit reports made with due participation of the Respondent and no claim raised therein?*



Finding of the Tribunal: No. The Respondent is entitled to raise a Counter Claim and has raised the same, which has been considered by this Tribunal and the issue wise findings are given below. This issue is accordingly decided against the Claimant.

The issues proposed by the Respondent and burden to prove the same was on the Respondent.

- f. *Whether the instant contract is Item Rate Tender or Lump sum Contract?*

Finding of the Tribunal: The Tribunal has held above that the Contract dt.9.1.2018 between the parties was actually a Lump Sum Contract and not an item rate contract even though the Agreement described it to be so and the Respondent has claimed it to be so. This is established by the conduct of the parties and the evidence placed on the record of this Tribunal. The Issue is decided against the Respondent accordingly.

- g. *Whether the breach of contract has been committed by the Claimant?*

Finding of the Tribunal: The breach of contract has not been committed by the Petitioner Claimant Society, but it has not paid the Running Bills of the Respondent Contractor to the extent of work done by him and more particularly the extra work assigned to him which was not covered by the Agreement dt. 9.1.2018. The Issue is decided accordingly.

- h. *Whether the delay/prolongation of the Contract is*



attributable to the Claimant?

Finding of the Tribunal: *Partly Yes. The Claimant Society did not approve the drawings and Committee concerned did not clarify the doubts and issues raised by the Contractor nor the verification of work was carried out with due promptitude, which delayed the execution of the work and nonpayment of the Running Bills after due verification was not done in time, which perhaps compelled the Respondent Contractor to leave the work incomplete, but the entire responsibility of non-completion of the work cannot be laid upon the Petitioner Society, and it was essentially the contractual obligation of the Respondent Contractor to complete the same. Some delay was caused by the reasons beyond the control of the parties like restrictions of Covid-19 period etc. The Issue is decided accordingly.*

- i. *Whether the Respondent/counter claimant is entitled to get pre-suit, pendent lite and future interest @18% p.a.?*

Finding of the Tribunal: *The Respondent is also entitled to simple interest @ 6% p.a. payable from the date of Award till the actual payment and not at 18% p.a. as claimed, on the amount found due to be payable to him. The Issue is decided accordingly.*

- j. *Whether the Respondent/counter claimant is entitled to the relief claimed in the counter claim?*

Finding by the Tribunal: *The Respondent Contractor is found entitled to receive the sum of Rs.1,00,00,000/- (Rs.*



One Crore) only on lump sum basis on a fair and reasonable basis, from the petitioner society, for the works executed by him and the Bills not paid by the Claimant Society so far and not the entire amount claimed by him after the 11th Running Bill already paid by the Petitioner Claimant Society.

The Rest of the Counter Claims made by the Respondent like Escalation of costs during execution of work, Idling charges of labour and machinery, watch and ward charges during extended period of work, loss of profit, refund of earnest money, extra payment for high rise structure work etc. are liable to be dismissed as they were not proved at all by the Respondent with any evidence, what to say, by the cogent evidence.

Costs of Litigation / Arbitration

In view of the divided success of both the parties, both the parties are directed to bear their respective legal costs for this arbitration.”

25. A perusal of the analysis of the findings of the first issue shows that it is bereft of any details as to identifying which documents, which site reports, or which depositions justify the finding of delay. The Award does not clearly indicate what constituted the extra work said to be delayed, or which portion of the work remained incomplete.
26. A perusal of findings upon issue 2 shows that while concluding that the work performed by the petitioner suffered from deficiencies, the Award under Issue 2 offers only the bare assertion that “verification



reports placed on record proves that,” without analysing what those reports contain, whether they were proved, or whether they were challenged in cross-examination. The Sole Arbitrator also does not mention what “was not upto the mark” means.

27. With respect to findings of Issues 3 and 4, the determination of compensation of ₹2 crore is made “on an ad-hoc and fair estimation basis,” again without any formula, or evidence for supporting the arbitrary figure adopted by the Sole Arbitrator. Similarly, for interest it is simply stated that the interest is on the higher side and therefore it needs to be reduced without any reference to the law.
28. The contention of learned counsel for the respondent that guesswork is also a valid way of ascertaining the figure and reliance on ***Cobra Instalaciones (Supra)*** and related cases is misplaced as rough and ready estimate method can only be available in facts of a particular case when exact loss cannot be ascertained. The relevant finding of ***Cobra Instalaciones (Supra)*** read as under:

“32.2 ... It is when such circumstances are present in a given case, that the court could proceed based on “guesswork” with regard to the quantum of compensation to be allowed to the aggrieved party. The following observations made in the Construction and Design Services case being apposite are set forth hereafter:

“15. Once it is held that even in absence of specific evidence, the respondent could be held to have suffered loss on account of breach of contract, and it is entitled to compensation to the extent of loss suffered, it is for the



appellant to show that stipulated damages are by way of penalty. In a given case, when highest limit is stipulated instead of a fixed sum, in absence of evidence of loss, part of it can be held to be reasonable, compensation and the remaining by way of penalty. The party complaining of breach can certainly be allowed reasonable compensation out of the said amount if not the entire amount. If the entire amount stipulated is genuine pre-estimate of loss, the actual loss need not be proved. Burden to prove that no loss was likely to be suffered is on party committing breach, as already observed.

xxxx xxxx xxxx

17. Applying the above principle to the present case, it could certainly be presumed that delay in executing the work resulted in loss for which the respondent was entitled to reasonable compensation. Evidence of precise amount of loss may not be possible but in absence of any evidence by the party committing breach that no loss was suffered by the party complaining of breach, the Court has to proceed on guess work as to the quantum of compensation to be allowed in the given circumstances. Since the respondent also could have led evidence to show the extent of higher amount paid for the work got done or produce any other specific material but it did not do so, we are of the view that it will be fair to award half of the amount claimed as reasonable compensation.”



...”

29. The case of *Cobra Instalaciones (Supra)* does not sanction arbitrary quantification of damages in every case. On the contrary, the judgment carefully confines the use of such estimation to a narrow category of cases namely where a contract stipulates a sum by way of liquidated damages or prescribes a maximum limit for damages, and where the Court finds that the stipulated amount is partly penal.
30. In the present case, the Sole Arbitrator has not held that the evidence was insufficient to arrive at a loss figure or that liquidated damages clause being Clause 3 of the Agreement is partly penal. Instead, it has rejected the contractual figure outrightly and substituted it with an ad-hoc number of its own invention. This constitutes an impermissible rewriting of the contract and falls within the scope of interference under Section 34 of the Act.
31. While deciding whether the delay or prolongation of the Contract was attributable to the claimant/respondent, under Issue 8 it is clear that the findings recorded under this head are themselves premised on assumptions rather than concrete evidence.
32. The observations that “*the Claimant Society did not approve the drawings,*” or that “*the Committee did not clarify the doubts and issues raised by the Contractor,*” or that “*verification of work was not carried out with due promptitude,*” and that “*non-payment of Running Bills in time perhaps compelled the Contractor to leave the work incomplete,*” clearly indicate that the conclusions are speculative. The use of expressions such as “*perhaps*” further demonstrates that the findings are not based on proven facts.



33. Likewise, in relation to the counterclaims, while the Sole Arbitrator summarily grants ₹1 crore “on a fair and reasonable basis,” it expressly dismisses the remaining counterclaims on the ground of “no evidence,” without explaining which evidence was lacking, how the burden of proof was discharged or not discharged, or how the contradictory finding that many extra works were in fact executed was reconciled with this conclusion.
34. Thus, a reading of the issue-wise findings shows that the Sole Arbitrator has delivered conclusions without reasons, inasmuch as there is no discussion of how the evidence supports each finding, which clauses are applicable, no application of law to the facts, and no rational basis disclosed for the amounts awarded, rendering the Award unreasoned and contrary to the requirements of Section 31(3) of the Act as explained and reinforced by the Hon’ble Supreme Court in *Dyna Technologies (Supra)* and reiterated in the *OPG (Supra)*.
35. Th Hon’ble Supreme Court in *Dyna Technologies (Supra)* held that reasons must be proper, intelligible, and adequate, and further categorised awards into three classes: (i) those containing no reasons or unintelligible reasons; (ii) those containing improper reasons revealing a flaw in decision-making; and (iii) those containing inadequate reasons. The judgement of *OPG (Supra)* affirms this framework and clarifies that awards falling in Categories (1) and (2) are most vulnerable to being set aside under Section 34 of the Act.
36. When the issue-wise findings of the present Award (Pages 126 - 129 of the Award) are examined against this standard, it becomes evident that the Sole Arbitrator has merely recorded bare conclusions such as



that delay occurred, that deficiencies existed, that the contract was lump-sum, or that ₹2 crore is payable “on an ad-hoc and fair estimation basis” without any reasoning, evidentiary analysis, or indication of how these conclusions were reached.

37. The Award falls into all three categories identified in *Dyna (Supra)*, and most particularly Category (1), where reasons are non-existent, wholly unintelligible, or so deficient that they fail to meet the minimum standard mandated by law. Such an Award stands in direct conflict with Section 31(3) of the Act and is therefore liable to be set aside under Section 34. The analysis offered in the Award is entirely unrelated to the factual matrix. The purported reasons are unsupported by evidence, and there is a complete absence of any meaningful examination of the documents, evidence, or pleadings on record.
38. For the said reasons, the present petition is allowed and the Award dated 31.05.2025 is set aside.

JASMEET SINGH, J

NOVEMBER 17, 2025/sp
(Corrected and released on 27.11.2025)