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

+ **W.P.(C) 14464/2022 & CM APPL. 44156/2022**

ONKAR SINGH

.....Petitioner

Through: Appearance not given

versus

GOVERNMENT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Tushar Sannu, Mr. Pravin Bansal
and Mr. Ritik Anmol, Advocates for
GNCTD, Mr. Sandeep Sharma and Ms.
Kavita Agarwal, Advocate

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

13.03.2026

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1. The present petition has been filed assailing the order dated 17.02.2022 passed by the Commissioner under the Employees Compensation Act, 1923, whereby the petitioner along with respondent no.3 has been held jointly and severally liable to deposit a sum of Rs. 7,68,560/- along with interest @12% per annum on account of the death of one *Sohan Singh*.

2. It is contended that the proceedings before the Commissioner emanated from an Employee Accident Report (EAR) submitted by the police authorities. It is further submitted that though the contractor, i.e., respondent no.3, appeared before the Commissioner and made a statement claiming that he had engaged the deceased for whitewash work, the petitioner was never afforded an opportunity to contest the proceedings.



3. This Court had called for the Lower Court Record. A perusal thereof reveals that in the proceedings dated 17.11.2020, the Commissioner directed issuance of summons to the parties through speed post and through the concerned SHO. However, the record does not disclose any material evidencing service of the said summons upon the petitioner.

The said order is reproduced herein below:-

“17.11.20:

None Present

Summon shall be issued to all the parties as per information given in EAR through speed post and also through S.H.O.

Listed the matter on 11.1.2021”

4. Significantly, the record does not contain any order recording service of summons upon the petitioner. The next substantive proceeding appears to have been conducted on 28.12.2021, when the statement of respondent no.3 was recorded.

5. Even in the earlier order dated 10.01.2023, this Court had noted that a perusal of the Trial Court Record *prima facie* supported the petitioner's contention that prior to 28.10.2021, no notice had been issued to him.

6. In the absence of any material to establish that the petitioner was duly served with notice of the proceedings, the impugned order fastening liability upon the petitioner cannot be sustained.

7. The requirement that a person likely to be affected by an order must be afforded an opportunity of hearing is well settled. In State of Orissa v. Binapani¹, the Supreme Court held that even an administrative decision having

¹ 1967 SCC OnLine SC 15



civil consequences must be preceded by informing the person concerned of the case against him and giving him an opportunity to meet the same. Similarly, in *Canara Bank v. Debasis Das*², the Supreme Court reiterated that notice and opportunity of hearing constitute the minimum requirements before any adverse decision is taken against a party. Again, in *Uma Nath Pandey v. State of U.P.*³, it is held that where such opportunity is denied, the decision itself cannot be sustained.

8. Accordingly, keeping in view the principles laid down in the aforementioned decisions and the facts of the case, the matter is remanded to the Commissioner under the Employees Compensation Act, 1923 for fresh consideration in accordance with law, after issuing proper notice to all concerned parties and affording them an opportunity to file their pleadings and lead evidence. It is clarified that this Court has not expressed any opinion on the merits of the contentions.

9. The parties are directed to appear before the concerned Commissioner on 30.03.2026.

10. The petition along with the pending application stand disposed of in the above terms.

11. A copy of this order be communicated to the concerned Commissioner.

MANOJ KUMAR OHRI, J

MARCH 13, 2026

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² (2003) 4 SCC 557

³ (2009) 12 SCC 40