

Tulsi Yadav Appellant
Versus
 Gagandeep Singh & Others Respondents

For the Appellant : Mr. Arvind Kumar Lall, Advocate.
For the Respondent No. 3 : Mr. Manish Kumar, Advocate.

11/11.05.2023.

Learned counsel for the appellant, Mr. Arvind Kumar Lall has submitted, that the learned Tribunal has wrongly considered the age of the appellant to be 60 years contrary to the injury report, where the Doctor has assessed the age of the injured appellant to be 44 years.

Learned counsel for the appellant has further submitted, for the period during which the appellant was admitted i.e. from 27.03.2015 till 01.04.2015, no amount for loss of earning has been granted by the learned Tribunal nor any amount for loss of future earning, because learned Tribunal has wrongly considered the permanent disability of 40%, to be temporary disability and as such, the compensation amount may be enhanced.

Learned counsel for the appellant has further submitted, that from perusal of impugned award, it appears that during treatment, steel rod was inserted in right thigh and thus, appellant / injured become permanent disabled, as such loss of earning for 06 days may also be granted.

Learned counsel for the respondent / Insurance Company, Mr. Manish Kumar has submitted, that any assessment of age by a Doctor is an assessment by naked eye and that cannot be a proof of age of a person.

Learned counsel for the respondent / Insurance Company has further submitted, that the F.I.R. shows that appellant - Tulsi Yadav was purchasing tobacco and he sustained injury due to road accident caused by offending Truck bearing registration No. PB-19F-2695 and the sentence used in the F.I.R. for the injured may profitably be quoted hereunder:

गुमटी में खैनी खरीद रहा बुढ़ा व्यक्ति जिसका नाम तुलसी यादव पिता स्व० हरखु यादव ग्राम शिवुडीह है एवं गुमटी मालिक शंकर वर्मा की लड़की मुस्कान कुमारी को गंभीर चोटें आयी है।

Learned counsel for the respondent / Insurance Company has further submitted, that so far the loss of future earning is concerned, since the appellant is 60 years old, there is provision for grant of future prospect in the judgment passed by the Hon'ble Apex Court in the case of *National Insurance Company Ltd. Vs. Pranay Sethi and Ors.* reported in *(2017) 16 SCC 680 (Para-59.4)* is 10% only for the deceased between the age of 50 to 60 years.

Learned counsel for the respondent / Insurance Company has further submitted, that even in India the average age of person is considered to be 70 years.

This Court has tried to persuade the appellant as well as respondent to settle this issue in the National Lok Adalat.

Upon which, learned counsel for the respondent / Insurance Company, Mr. Manish Kumar has submitted, that the appellant should disclose that what is the tentative amount, he wants for settlement.

In reply, learned counsel for the appellant, Mr. Arvind Kumar Lall has submitted, that tentative amount between 9-10 lacs is sufficient for settlement.

Learned counsel for the respondent / Insurance Company, Mr. Manish Kumar has submitted, that the amount disclosed by learned counsel for the appellant, Mr. Arvind Kumar Lall seems to be exorbitantly high, as such, it is very difficult for the Insurance Company to settle such case in the National Lok Adalat.

Considering the same, appellant is directed to bring on record the proof of his age before this Court.

Admit.

Since, the L.C.R. has already been received, let the appeal be heard in detail.

(Kailash Prasad Deo, J.)

Sunil/-