

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2201 OF 2011
IN
SPECIAL LEAVE PETITION (C) NO. 20082 OF 2009

SOMASHEKHAR A.S.

..... APPELLANT

VERSUS

UNITED INDIA INSURANCE CO. LTD.

..... RESPONDENT

O R D E R

1. Leave granted.
2. We have heard learned counsel for the parties.
3. We have gone through the Award of the Tribunal and find that the compensation had been determined on the basis of the age factor as well as the disability of 60 per cent as would be clear from paragraph 27 of the order of the Commissioner for Workmen's Compensation (page 62 of the paper book). While taking this into account, the Tribunal found that compensation payable was ` 4,95,984/-. This amount has been reduced by the High Court to ` 3,12,469/-.
4. After hearing learned counsel for the parties we find that the High Court was not justified in reducing the amount any further as the earning capacity was to be reduced by 60 per cent and not 63 per cent. We, accordingly, restore the order of the Tribunal and

direct that the appellant would be entitled to the compensation awarded by the Tribunal.

5. The learned counsel for the Insurance Company has, however, contended that the loss had been determined properly by the High Court at 60 per cent, as per Section 4 of the Workmen's Compensation Act. We have gone through this provision and find that appellant claimed a loss at 60 per cent and that is what has been awarded by the Tribunal.

6. We, accordingly, allow the appeal and set aside the judgment of the High Court and restore that of the Tribunal.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
MARCH 01, 2011.