HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

M.A.C.M.A.No.1691 OF 2011

JUDGMENT:

The 2nd respondent-Insurance Company to the claim petition O.P.No.3019 of 2008 among the two respondents including the owner–R.1 of the claim petition, filed under Section 166 of the Motor Vehicle Act,1988 *(for short, 'the Act')*, for the claim filed by the petitioners who are parents, younger brother and sister of the deceased U.Raja, aged about 20 years as per the post mortem report Ex.A.4, for the claim of Rs.5,00,000/- since granted Rs.3,70,000/- against both the respondents, with the contentions that the tribunal taken earnings at Rs.3,000/- p.m. out of the claim of Rs.5,000/-p.m. as on the date of accident dated 08.11.2008 by deducting 1/3rd towards personal expenses, taken loss of dependency to Rs.24,000/- and arrived at Rs.3,60,000/- besides Rs.5,000/- towards funeral expenses, Rs.5,000/- towards loss of estate totaling of Rs.3,70,000/-, preferred this appeal impugning the award dated 11.04.2011 passed by the learned Chairman of the Motor Accidents Claims Tribunal–cum-II Addl.Chief Judge, City Civil Court, Hyderabad,(*for short, 'Tribunal')*, against the claimants 1 to 4 and the owner of the vehicle i.e. R.1 with the contentions that the compensation as well as the interest is excessive and exorbitant and to be reduced.

2. Heard the learned counsel for the appellant-Insurer and the learned counsel for the claimants and the appeal 5th respondent who remained ex parte before the tribunal, submitted by the appellant as not necessary party as per the expression of the Apex Court in **M.Chakra Rao v. Y.Baburao** and perused the material on record.

3. The accident was dated 08.11.2008. As per the expression of Apex Court in **Latha Wadhwa vs. State of Bihar** even there is no proof of income and earnings, it can be reasonably estimated at Rs.3,000/- p.m. for any non-earning member and even for housewife as domestic contribution and the accident is after 7 years of the said expression, the prospective increase in earnings of Rs.800/- is taken, the earnings to be taken of Rs.3,800/- p.m., if half deducted towards personal expenses as the claimants are parents, younger brother and sister are not the dependents on the deceased, it comes to Rs.1900/- multiplier adopted though not in dispute from the age of the mother shown in the claim petition of 37 years. The multiplier for a

persons between 36 to 40 is of 15 is adopted, it comes to Rs.1900/- x 12 x 15 = Rs.3,42,000/- besides that Rs.25,000/- towards funeral expenses, Rs.10,000/- towards loss of estate and Rs.10,000/- towards love and affection lost from the death of the deceased even awarded in total Rs.3,87,000/- which is more than Rs.3,70,000/- awarded by the tribunal, thereby there is nothing to interfere with the award of the tribunal.

Point No.2:

3. In the result, appeal is dismissed with no costs. Consequently, miscellaneous petitions, if any pending in this appeal, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 05.11.2015

Vvr