APHC010980022017

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

MONDAY, THE 2ND DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3096/2017

Between:

1. THE NATIONAL INSURANCE COMPANY LIMITED, REP BY ITS BRANCH MANAGER, SRIKAKULAM TOWN AND DISTRICT.

...APPELLANT

AND

1. BAMMIDI SAVITHRI, W/O.RAJA RAO, HINDU, AGED ABOUT 55 YEARS, HOUSEHOLD DUTIES, RESIDING AT SARADHAPURAM VILLAGE, VAJRAPUKOTTURU MANDALARN, SRIKAKULAM DISTRICT.
2. BAMMIDI RAJA RAO, S/O.LATE DALAYYA, HINDU, AGED ABOUT 55 YEARS, CULTIVATION, RESIDING AT SARADHAPURAM VILLAGE, VAJRAPUKOTTURU MANDALARN, SRIKAKULAM DISTRICT
3. GUNNA PRASAD ALIAS PRASADA RAO, S/O.LATE ADINARAYANA, HINDU, AGED 42 YEARS, DRIVER OF TRACTOR & TRAILER NO.AP30V4073-4074, RESIDING AT NANDIGAM VILLAGE AND MANDALAM, SRIKAKULAM DISTRICT.
4. BODDA APPALASWAMY, S/O.LATE RAJANNA, HINDU, AGED 60 YEARS, OWNER OF TRACTOR & TRAILER NO.AP30V4073-4074, RESIDING AT PENTURU VILLAGE, NANDIGAM POST SRIKAKULAM DISTRICT.

...RESPONDENT(S):

Appeal filed under Order 41 of CPC before the High Court aggrieved by the orders of the Chairman, Motor Accidents Claims Tribunal cum 1st Addl.

District Judge, Srikakulam in M.V. 0. P. No.213 of 2013 on 25.07.2017 for the followving among the other

IA NO: 1 OF 2017(MACMAMP 5454 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to condone the delay of 30 days occurred in filing the appeal against the decree and judgment Dated 25-7-2017 in MVOP No. 213 of 2013, on the file of the Chairman, Motor Accidents Claims Tribunal-Cum-I Addl. District Judge, Srikakulam and pass

IA NO: 2 OF 2017(MACMAMP 5455 OF 2017

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay of execution of the award and decree made in MVOP No. 213 of 2013, dt. 25-7-2017 on the file of the Chairman, Motor Accidents Claims Tribunal Cum 1 Addl. District Judge, Srikakulam and pass

Counsel for the Appellant:

1. A JAYANTHI

Counsel for the Respondent(S):

1. ARAVALA RAMA RAO

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 3096 OF 2017

JUDGMENT:

Assailing the Order and decree dated 25.07.2017 passed in M.V.O.P.No.213 of 2013 by the Motor Accident Claims Tribunal-cum-I Additional District Judge, Srikakulam, the respondent No.3/appellant has preferred the instant appeal for granting compensation of Rs.9,14,800/- for untimely death of Bammidi Gopala Rao in a motor vehicle accident dated 12.02.2011.

2. The parties are being referred to as 'petitioners' and 'respondents' as arrayed in the petition before the Tribunal, for the sake of convenience and clarity.

3. Case of the petitioners is thus:

On 12.02.2011, while the deceased along with his friends going from Palasa so as to go to Srikakulam in a car bearing No.AP 30 F 8685 and when their car reached near Akula Nandigam Village at about 8.30 P.M, one tractor & trailer, came in wrong route in a rash and negligent manner and dashed against the car and as a result of which, inmates of the car sustained injuries and driver/Bammidi Gopala Rao received injury to forehead and other multiple fracture injuries and died on the spot. As on the date of the accident, deceased aged about 24 years, hale and healthy, working as male nursing orderly, was earning Rs.9,600/- per month and contributing the same for maintenance of his family. Due to the sudden death, petitioners who completely depended upon the earnings of the deceased, lost financial support and love and affection. The accident occurred due to the rash and negligent driving of the driver of the tractor and trailer bearing No.AP30 V-4073-4074 and as such, a case in crime No.14 of 2011 is registered of the offences under Sections 304-A and 338 of the Indian Penal Code (hereinafter

referred to as 'the Code') against the driver of the offending vehicle/respondent No.1. Respondent No.1 is driver, respondent No.2 is owner and respondent No.3 is insurer of tractor and trailer bearing No. AP30 V-4073-4074. All the respondents are jointly and severally liable to pay compensation.

4. Respondent Nos.2 and 3 filed written statements separately. Respondent No.2 refuted the averments in the petition and contended that respondent No.1 had valid driving license, the offending vehicle is insured with the respondent No.3 and the policy was in force as on the date of accident. Respondent No.3 contended that as per the first information report, the accident occurred due to the rash and negligent driving of the deceased, there was no negligence on the part of the respondent No.1, the offending vehicle had no valid fitness certificate, as on the date of accident, it is gross violation of the terms and conditions of the policy, petitioners claimed excessive compensation and interest, and with other formal denials, prayed to dismiss the petition.

5. Taking into consideration of the aforementioned pleadings, the learned Tribunal settled the following issues:

1) Whether the accident is occurred due to rash and negligent act of 1st respondent as driver of Tractor & Trailer bearing Registration No.AP 30 V 4073/4074?

OR

Whether the accident is occurred due to rash and negligent act of the deceased as driver of car bearing Registration No.AP30 F 8685?

OR

2) Whether the accident is occurred due to contributory negligence on the part of driver-1st respondent as driver of Tractor & Trailer bearing Registration No.AP 30 V 4073/4074 and as well as due to contributory negligence on the part of the deceased as driver of car bearing Registration No.AP 30 F 8685?
3) Whether the petitioners are entitled for the compensation? If so to what amount and from which of the respondents?
4) Whether the petition is bad for non-joinder of necessary parties?

5) To what relief?

6. During trial, petitioner No.1 herself examined as P.W.1 and petitioners have got examined as PW Nos.2 and 3, and filed EXs.A1 to A7 documents. As against the said evidence, respondent No.3 has got examined RWs.1 and 2 and filed EXs.B1 and EXs.X1 to X3 documents. At the culmination of trial, learned Tribunal awarded compensation of Rs.9,14,800/- with interest at 9% interest per annum. Feeling aggrieved by the said order and decree, respondent No.3/Insurance company preferred the instant appeal urging the following grounds:

(i) The Order and decree of the learned Tribunal is illegal, arbitrary, contrary to law and weight of evidence.

(ii) The learned Tribunal failed to see that there was no negligence on the part of the respondent No.1 and that the accident occurred due to the rash and negligent driving of the deceased.

(iii) The learned Tribunal ought to have seen that the offending vehicle has no fitness certificate, and not appreciated the evidence in the proper perspective.

(iv) The learned Tribunal ought to have held that there was contributory negligence on the part of the deceased.

(v) The learned Tribunal ought to have seen that there is violation of policy condition and that the insurance company is not liable to pay compensation.

(vi) The learned Tribunal ought to have seen that the salary of the deceased has not been properly assessed before awarding compensation, and with other formal grounds, prayed to allow the appeal.

7. Heard both sides.

8. On hearing both sides and upon perusing the material available on record, the points that would arise for consideration are:

(i) Whether the deceased B. Gopal Rao died in the accident dated 12.02.2011 occurred due to the rash and negligent driving of the respondent No.1 or due to the rash and negligent driving of the car bearing No.AP 30 F 8685? or due to the contributory negligence?

(ii) Whether the petitioners are entitled for compensation? If so, to what amount and from which of the respondents?

(iii) Whether the order and decree dated 25.07.2017 passed by the learned Tribunal are sustainable in law and facts?

(iv) To what relief?

9. Admittedly, the petitioners have not filed any appeal or cross objections against the findings in respect of quantum of compensation, however, being the first appellate court and final fact finding court, this court has to re-examine and re-appreciate the entire oral as well as documentary evidence on record.

10. Point No.1:

(a) As seen from the record, there is absolutely no dispute with regard to the factum of accident and involvement of the offending vehicle i.e. tractor & trailer in the accident. In order to prove the manner and method of accident, petitioners relied upon the evidence of PW Nos.1 and 2 coupled with EXs.A1 to A4 documents. It is evident from the record that PW.1 who is the mother of the deceased is not an eye witness to the accident and the only available evidence to prove the manner and method of accident is that of PW.2 and he testified that on 12.02.2011, while himself, deceased and one Kaniti Srinivasa Rao were going in the car bearing No.AP 30 F 8585 from Palasa to Srikakulam and when their car reached Akula Nandigam village on NH-5 road, respondent No.1 being the driver of the tractor & trailer came in wrong route and drove the same in a rash and negligent manner and dashed against their

car and as a result, they sustained injuries and driver of the car died on the spot, and in the cross-examination, nothing useful material is elicited. According to him, the accident occurred due to the rash and negligent driving of the respondent No.1.

(b) It is the case of the respondent No.3/insurer that the said accident occurred due to the negligent driving of the deceased. Having received summons, respondent No.1 remained *ex* parte. Having filed written statement, respondent No.2 did not adduce any evidence. Except self-serving statement of RW.1/Branch manager of respondent No.3 that the accident took place due to the rash and negligent driving of the deceased, respondent No.3 has not produced any supportive material. Respondent No.1 who is the best person to speak about the accident is not examined and his non examination is fatal to the case of respondent Nos.2 and 3.

(c) Further, a case in crime No.14 of 2011 under Sections 304-A and 338 of the Code is registered against respondent No.1 and after completion of investigation, police laid charge sheet alleging that the accident occurred due to the rash and negligent driving of respondent No.1. As seen from EX.A3/Motor Vehicles Inspector report, the accident was not occurred due to any mechanical defect of the offending vehicle. So, the evidence of PW Nos.1 and 2 coupled with EXs.A1 and A2 clinchingly proves that the accident occurred due to the rash and negligent driving of the respondent No.1. It is evident from EX.A4/Postmortem report that the deceased succumbed to the injuries sustained in the accident. Hence, this point is answered holding that the accident occurred due to the rash and negligent driving of the respondent No.1, deceased sustained injuries in the said accident and succumbed to the said injuries.

11. Point No.2:

(a) According to the petitioners, the deceased hale and healthy, aged about 24 years, unmarried, worked as male nursing orderly and was earning Rs.9,600/- per month, the petitioners are parents of the deceased and due to the sudden demise of their son, petitioners lost financial support, love and affection. In all the crime records i.e. EXs.A2 and A4/Charge sheet and Postmartem report, age of the deceased is mentioned as 24 years. There is no contra evidence to that effect. Therefore, it can safely be concluded that the deceased aged about 24 years, as on the date of accident. The petitioners who are mother and father of the deceased are entitled to compensation.

(b) As regards the income of the deceased, petitioners relied upon the evidence of PW.3 who testified that the deceased worked in their hospital from February, 2008 till his death and they used to pay Rs.9,600/- per month, had the deceased been alive, he would have earned more and at present, colleague employees of the deceased are drawing salary of Rs.15,800/- per month and he filed EX.A5/Salary certificate of the deceased. While admitting that deceased worked as private employee, all the suggestions posed by the learned counsel for respondent No.3 are denied. As seen from EX.A5/Salary certificate and EX.A7/Wage register, the deceased worked as male nursing orderly from February, 2008 to February, 2011 and was drawing salary of Rs.9,600/- per month, as on the date of the accident. PW.2 also stated on the same lines of evidence of PW.3. There is no contra evidence to that effect. So, the learned Tribunal rightly assessed the income of the deceased at Rs.9,600/- per month, as on the date of the accident and the same shall be taken into consideration.

(c) The petitioners have not filed any appeal for enhancement of compensation, however, learned counsel for the petitioners would argue that though they have not filed any appeal or cross objections seeking enhancement of compensation, just and fair compensation may be awarded.

Learned counsel for the respondents argued that the accident occurred in the year 2011 and as such, the present principles of law shall not be applied to the facts of the case at hand. It is settled principle of law that the petitioners are entitled for just and fair compensation and further, in exercise of the appellate powers under Order 41 Rule 33, this court can enhance the amount of compensation even in the absence of appeal or cross objections. In this regard, it is to be noted that in ***Sharanamma & Others v. Divisional Controller, North-East Karnataka Road Transport Corporation***[1]***,*** Hon'ble Apex Court held thus:

> "10. When an appeal is filed under Section 173 of the Motor Vehicles Act, 1988, before the High Court, the normal rules which apply to appeals before the High Court, are applicable to such an appeal also. Even otherwise, it is well settled position of law that when an appeal is provided for, the whole case is open before the appellate court and by necessary implication, it can exercise all powers incidental thereto in order to exercise that power effectively. A bare reading of Section 173 of the Act also reflects that there is no curtailment or limitations on the powers of the appellate court to consider the entire case on facts and law".

(d) Further, in ***National Insurance Company Limited rep. By its Branch Manager v. Susheelamma and Others*** [2] , having considered the aforementioned principle, Division Bench of this Court has held that to the appeal under Section 173 of the M.V. Act to the High Court, in the absence of a different procedure having been provided, either under the M.V. Act or the A.P.M.V. Rules, 1989, and the applicability of Order 41 C.P.C also not having been excluded, the normal rules which apply to appeals before the High Court, are applicable and further held that for doing justice and to award just compensation, the provisions of Order 41 Rule 33 are to be invoked.

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[1] 2013 (11) SCC 517
[2] 2023 SCC Online AP 1725

(e) And, in ***Surekha v. Santhosh***[3], having agreed with the stand of the claimants that just compensation amount ought to be awarded, High Court of Judicature at Bombay declined to grant enhancement merely on the ground that the claimants failed to file cross appeal and in such circumstances, Hon'ble Apex Court held that it is well settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants. So, in the absence of any appeal or cross objections in respect of quantum of compensation, this Court is under obligation to award just and fair compensation.

(f) While determining compensation, the principles laid down by the Hon'ble Supreme Court in ***Sarala Varma and Others Vs. Delhi Transport Corporation and another***[4], ***National Insurance Company Ltd Vs. Pranay Sethi and others***[5], and ***Magma General Insurance Company Limited v. Nanu Ram alias Chuhru Ram and others***[6] must be considered. The accident occurred on 12.02.2011. Respondent No.3 filed the appeal with a delay, and the appeal was registered in 2017. As regards the applicability of subsequent decisions to the present case, in ***Government of India and another v. Sri Devaraj Medical College***[7], it was held that, unless a decision of the Hon'ble Supreme Court expressly provides for prospective application, the law declared therein applies retrospectively.

(g) As seen from the impugned Order dated 25.07.2017, the learned Tribunal erred in considering the age of the mother of the deceased instead of age of the deceased and applied multiplier of '11' and though the deceased unmarried, erroneously deducted 1/3rd of the income towards personal expenses, while assessing the loss of dependency.

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[3](2021) 16 SCC 467
[4] (2009) ACJ 1298
[5] (2017) 6 SCC 680
[6](2018) 18 SCC 130
[7]2026 Livelaw SC 766

(h) Applying the aforementioned principles, this Court assesses the compensation as follows:

Sl. No.	**Heads**		**Calculation**
1.	Annual income (Rs.9,6000 × 12)	Rs.	1,15,200/-
2.	Deduction towards personal expenses (1,15,200 × 1/2)	Rs.	57,600/-
3.	Total income (1,15,200 − 57,600)	Rs.	57,600/-
4.	Future prospects (40% of 57,600)	Rs.	23,040/-
5.	Total loss of dependency (57,600 + 23,040) × 18	Rs.	14,51,520/-
6.	Loss of consortium (40,000 × 2) (Filial)	Rs.	80,000/-
7.	Funeral expenses	Rs.	15,000/-
8.	Transportation expenses	Rs.	15,000/-
9.	Loss of estate	Rs.	15,000/-
	Total	Rs.	**15,76,520/- (rounded to 15,76,500/-)**

(i) In the court's well considered view that in accordance with the propositions of law laid down by the Hon'ble Apex Court, the compensation of **Rs.15,76,500/-** is just and reasonable, having regard to the loss suffered by the dependants of the deceased.

(j) So far as liability of the respondents is considered, a finding is already given in point No.1 holding that the accident occurred only due to the rash and negligent driving of the tractor & trailer bearing No.AP 30 V 4073/4074 and as such, respondent No.2 is vicariously liable for the acts committed by the respondent No.1. Learned counsel for the respondent No.3 argued that, the offending vehicle had no fitness to ply on roads, as on the date of the accident and to substantiate its contention, respondent No.3 has got examined RWs. 1 and 2/Branch manager and authorized employee of road transport office, Srikakulam. While testifying that the offending vehicle is insured with their company, EX.B1/Policy was in force, RW.1 stated that respondent No.2

violated the terms and conditions of policy by allowing the offending vehicle to ply on road without permit. Having produced EX.X1/Authorization letter, EX.X2/B-Register extract and EX.X3/Fitness history certificate, RW.2 stated that there was no valid fitness certificate to the offending vehicle, as on the date of accident.

(k) In this regard, it is to be noted that, "Permit" means a permit issued by a State or Regional Transport Authority or an authority prescribed in this behalf under this Act authorizing the use of a motor vehicle as a transport vehicle. And, "National permit" means a permit granted by the appropriate authority to goods carriages to operate throughout the territory of India or in such contiguous States, not being less than four in number, including the State in which the permit is issued as may be specified in such permit in accordance with the choice indicated in the application.

(l) Further, Section 66 of the Act states that no owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in a public place save in accordance with the permission of a permit granted by a Regional or State Transport Authority authorizing him to use the vehicle "in that place" in the manner in which the vehicle is being used. Sub-Section 3 of the Section 66 gives exemption to certain vehicles for being used without a permit. Section 66(1) of the Act, so far as it is relevant to the present petition, is reproduced herein below:

> "66. Necessity for permits.-- (1) No owner of a motor vehicle shall use or permit the use of the vehicle as a transport vehicle in any public place whether or not such vehicle is actually carrying any passengers or goods save in accordance with the conditions of a permit granted or countersigned by a Regional or State Transport Authority or any prescribed authority authorizing him the use of the vehicle in that place in the manner in which the vehicle is being used: Provided also that a goods carriage permit shall, subject to any conditions that may be specified in the permit, authorize the holder to use of the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(m) Section 69 of the Act states that every application for a permit shall be made to the Regional Transport Authority of the region in which the vehicle is proposed to be used. Just as an insurance policy could cover risks which are statutory or contractual in nature, in the same manner, the exemptions or restrictions under a policy could also be statutory or contractual in nature, however, subject to any supervening statutory conditions under the Act. For instance, the grounds of defence which are enumerated in Section 149(2) of the Act are meant for avoidance of liability. However, the said provision is subject to sub-Sections (3), (4) and (7) of Section 149.

(n) Thus, between the insured and the insurer, all restrictions by virtue of the terms, exceptions and conditions in the policy are valid and enforceable because they are parties to the contract. But as against a third party, only those defences incorporated in the Act which comes within Section 149(2)(a) could be raised as regards coverage of compulsory risks. This is as per Section 149(4). That means a third party's rights against the insurer cannot be defeated by any defence other than those coming within Section 149(2)(a). The insurer must in such a case satisfy the decree in favour of the third party, but can recover it from the insured by virtue of the proviso to Section 149(4). Further, Section 149(5) also empowers the insurer to recover from the insured any amount paid to the third party, in respect of a compulsory risk, which is in excess of the amount insured was liable to pay under the policy. Thus, Section 149(4) clearly enunciates the rule of pay and recover under two circumstances. Proviso to sub-Section (4) of Section 149 categorically states that any sum paid by the insurer towards the discharge of any liability of any person which is covered by the policy shall be recoverable by that person.

(o) In ***National Insurance Co. Ltd. v. Challa Upendra Rao and others***[8], Hon'ble Apex Court, considering the mandate of Section 66 of the Act held that where a person is found to be driving a transport vehicle without a Permit,

[8] (2004) 8 SCC 517

the defence under Section 149(2) of the Act shall be available to the insurer, however, the insurer would have to satisfy the Award and then seek recovery of the compensation amount from the insured/owner of the offending vehicle.

(p) In ***Amrit Paul Singh and Another Vs. Tata AIG General Insurance Company Limited and Others***[9], Hon'ble Supreme Court reiterated that where the vehicle is being used at a public place without a permit, it is a fundamental statutory infraction and the insured would be liable to reimburse the compensation amount paid to the claimants by the insurance company.

(q) From the above judgments, it would be apparent that where a person is found driving a vehicle beyond the route or area or region for which the permit has been granted, it would be a case of driving the offending vehicle without a valid Permit. However, with regard to third party rights, the insurer can defeat such rights under Section 149(2)(a) by proving a breach of the condition of the policy and further, proving that the same is a fundamental breach. In such an event, the insurer can only mitigate its liability and the insured would be liable to satisfy the judgment vis-a-vis the insurer who would have satisfied the claim of the third party in the first instance. Therefore, the insurer cannot defeat a third party claim by any exclusion in the policy having regard to the four corners of Section 149(2)(a). It can only mitigate its liability by seeking recovery from the insured on proof of the exclusion clause as per the twin tests enumerated by the Hon'ble Supreme Court. This is the object of Section 149 (4) and the proviso thereto which contemplates pay and recovery order to be made against the insurer who has been notified in a claim proceeding instituted by a third party under Section 149(1) of the Act.

(r) Therefore, non-possession of a valid and effective permit shall entitle the Insurance Company to seek a right to recover the compensation paid to the claimants from the owner of the offending vehicle. Such a right will also be available to the Insurance Company where the offending vehicle is being

[9] (2018) 7 SCC 558

operated at the time of the accident at a place for which it does not have a valid permit.

(s) Coming to the facts of the case on hand, the accident in this case occurred on 12.2.2011 at Akula Nandigam village and as per the evidence of RW.2, the offending vehicle had no valid permit. So, in the given facts and circumstances coupled with the aforementioned propositions, it can safely be concluded that the offending vehicle did not possess valid permit, as on the date of accident and it is a breach of contract and respondent No.2 had violated the terms and conditions of Ex.B1 policy and as such, he is alone liable to pay compensation to the petitioners, however, having given thoughtful consideration to the aforementioned principles coupled with the sections 157 (2) and 149 of Motor Vehicle Act and since the deceased is third party, respondent No.3 shall be directed to pay the compensation amount to the petitioners at the first instance and recover the same from the respondent No.2. Hence, this point is answered holding that respondent Nos.1 and 2 are jointly and severally liable to pay compensation.

12**. Point No.3:**

Upon reappraisal of the evidence on record and for the reasons stated above, this Court concludes that the learned Tribunal erred in determining just and fair compensation. The award is therefore liable to be modified. Point No.3 is answered accordingly.

13. **Point No.4:**

(i) ***In the result***, and in view of the findings in points Nos.1 to 3, the appeal is allowed in part, while modifying the order of the learned Tribunal by enhancing the compensation **from Rs.9,14,800/- (Rupees Nine Lakhs Fourteen Thousand Eight Hundred only) to Rs.15,76,500/- (Rupees Fifteen Lakhs Seventy Six Thousand Five Hundred only)**, together with

simple interest at 7.5% per annum from the date of the petition until realisation.

(ii) Out of the total compensation, Rs.7,88,250/- (Rupees Seven Lakhs Eighty Eight Thousand Two Hundred and Fifty only) each is awarded to petitioner Nos.1 and 2. The compensation shall be apportioned accordingly.

(iii) The compensation amount, together with interest, after deducting any amount already deposited, shall be deposited within one (1) month from the date on which the learned Tribunal receives a copy of this judgment at the first instance, by the respondent No.3 and shall recover the same from the respondent Nos.1 and 2.

(iv) Upon such deposit, petitioners are permitted to withdraw the compensation awarded to them, together with the accrued interest, after deducting any amount already paid.

(vi) There shall be no order as to costs.

As a sequel, any pending miscellaneous petitions shall stand closed.

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SUNITHA GANDHAM, J

Dt: 02.11.2026

Vns

Note: L.R. Copy to be marked.