BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.02.2020
CORAM:

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

W.P.(MD).No.18544 of 2016
and
W.M.P.(MD).Nos.13429 and 13430 of 2016

Smt.Ramayee ... Petitioner

Vs.

1.The Principal Comptroller of Defence
Accounts (P.CDA)
Droupathi Ghat
Allahabad(U.P)

2.The Chief Records Officer,
Bihar Regiment Centre,
Dhanapur Contonment,
Bihar State 801 503.

3.The Armt Group Insurance Fundamental
Integrated HQ of MOD(Army)
Adjtant General's Branch
AGI Bhavan, Rao Dula Ram Marg
P.B No.14, Post Vasant Vihar
New Delhi 110 057.

4.Smt.Pandia Lakshmi ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 herein to apportion the Army Group Insurance Fund payable on the death of the petitioner's deceased son Ex.Sepoy C.Palanichamy 17th Bihar Regimet, C/o.56 APO, in equal proportion and allot one such share to the petitioner and her husband as per the representation of the petitioner dated 08.09.2016 within a reasonable time.

For Petitioner : Mr.M.Joseph Thatheus Jerome
for M/s.S.Alagusundar

For R1 and R2 : Mr.S.Jeyasingh

For R3 : Mr.M.Krishnan
For R4 : Mr.M.Natarajan

O R D E R

The petitioner herein is the mother of the deceased Ex.Sepoy viz., C.Palanichamy, expired during the course of his employment under Indian Army on 16.03.2016. The deceased employee had nominated the fourth respondent herein, who is his wife, for the purpose of disbursement of the insurance benefits under the Army Group Insurance Fund Scheme.

2.The petitioner, being the mother, claims 1/4th of the share of the total insurance benefits, since the late soldier was survived by the petitioner being the mother, the fourth respondent being his wife and his two children. The fourth respondent's objections to the petitioner's claim is on the ground that she alone has been nominated for the benefits of the insurance and therefore, the petitioner cannot have any legal claim.

3.The issue as to whether the nominee could be termed as 'legatee' or the 'trustee' in respect of any monetary benefits arising out of the DCRG of the deceased employee, has time and again come before the Hon'ble Apex Court as well as this Court and it has been categorically held that mere nomination will not confer any beneficial interest on the nominee alone, but it would be to the benefit of all the legal heirs of the deceased employee.

4.In the case of ***SARBATI DEVI V. USHA DEVI(1984) 1 SCC 424***, the Hon'ble Supreme Court had held that the principle of law is to the effect that the nomination would not confer any beneficial interest on the nominee and is only an authorization to the nominee to receive the insurance amount, which is subject to disbursement among the legal heirs, as per the Law of Succession. The following decision in ***SHIPRA SENGUPTA VS. MRIDUL SENGUPTA AND OTHERS*** reported in ***(2009) 10 Supreme Court Cases 680***, had reiterated this preposition of law in the following manner,

> *"13.The appellant submitted that according to the settled legal position crystallised by Sarbati Devi, the principle of law is that the nomination is only the hand which accepts the amount and a nomination does not confer any beneficial interest in the nominee.*
>
> *14.In Sarbati Devi this Court has laid down that a mere nomination does not have the effect of conferring to the nominee any beneficial interest in the amount payable under the life insurance policy, on death of the insurer. The nomination only indicates the hand which is authorised to receive the amount on payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession.*
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> *15.The appellant also placed reliance on the judgment of this Court in Vishin N.Kanchandani v. Vidya Lachmandas*

Khanchandani, wherein this Court held that:(SCC pp.734-35, para 13)

> *"13.....the law laid down by this Court in Sarbati Devi holds the fields and is equally applicable to the nominee becoming entitled to the payment of the amount on account of National Savings Certificates received by him under Section 6 read with Section 7 of the Act, who in turn is liable to return the amount to those in whose favour the law creates a beneficial interest, subject to the provisions of sub-Section(2) of Section 8 of the Act."*

16.Learned counsel for the appellant also placed reliance on a Division Bench Judgment of the Delhi High Court in Ashok Chand Aggarawala v. Delhi Admn. This case related to the Delhi Cooperative Societies Act. The High Court while following Sarbati Devi case held that it is well settled that mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned. The nomination indicates the hand which is authorised to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the deceased, in accordance with the law of succession governing them.

17.The controversy involved in the instant case is no longer res-integra. The nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession. In terms of the factual foundation laid in the present case, the deceased died on 08.11.1990 leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, on the day when the right of succession opened, the appellant his widow became entitled to one-half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving son getting the same."

5.The aforesaid decision came to be adopted by a learned Judge of this Court in the case of ***P.PANCHALI V. THE CHIEF ENGINEER, MADURAI REGION, TAMIL NADU GENERATION AND DISTRIBUTION CORPORATION LTD., K.PUDUR, MADURAI-7, AND OTHERS*** in ***W.P.(MD).No.10748 of 2016*** and in the order dated 08.09.2016, the learned Judge had held as follows:

> *"5.After elaborately discussing those judgments, the Supreme Court has concluded as under:*
>
> > *"17.The controversy involved in the instant case is no longer res integra. The nominee is entitled to receive the same, but the amount so*

received is to be distributed according to the law of succession.

18.In terms of the factual foundation laid in this case, the deceased died on 08.11.1990 leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, on the day when the right of succession opened, the appellant, his widow became entitled to one half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving song getting the same.

19.In view of the clear legal position, it is made abundantly clear that the amount in any head can be received by the nominee, but the amount can be claimed by the heirs of the deceased in accordance with law of succession governing them. In other words, nomination does not confer any beneficial interest on the nominee. In the instant case amounts so received are to be distributed according to the Hindu Succession Act, 1956. The State Bank of India is directed to release half of the amount of general provident fund to the appellant now within two months from today along with interest."

6.This decision of the Hon'ble Supreme Court is applicable to the facts of this case and unhesitatingly, this Court holds that the petitioner as mother is entitled to receive 50% of the terminal benefits of the deceased even though the 6th respondent/wife is the nominee.

7.As there is no cordiality prevailing between the petitioner and the 6th respondent, permitting the 6th respondent to receive the same and directing the 6th respondent to disburse 50% to the petitioner could only lead to multiplicity of the proceedings, involving expenditure in terms of time, money and energy. Therefore, the petitioner is permitted to receive 50% of the terminal benefits.

8.In the result, this Writ Petition is allowed and the impugned order of the 3rd respondent dated 05.05.2016 passed in Ka.No:Se.Po/KiKo/UNiA/NiPi/Nir.U.1/A.No.745/2016 is set aside. Either the 3rd or the 2nd respondent, whomsoever is competent is directed to disburse the terminal benefits of the deceased employee in equal proportion to the petitioner as well as to the 6th respondent within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed."

6.Thus, the legal decision stands cleared to the effect that, though the wife alone is nominated to the benefits of the insurance scheme, the proceeds of the scheme requires to be distributed among the legal heirs of the insurer, in accordance with the Law of Succession. While that being so, the objection raised by the fourth respondent that the petitioner is dis-entitled to receive the part of the insurance amount, in view of her nomination, cannot be legally sustained.

7.It is now brought to the notice of this Court out of the total insurance amount under the Army Group Insurance Fund Scheme, the fourth respondent along with her two minor children had received a sum of Rs.22,50,000/- (Rupees Twenty Two Lakhs Fifty Thousand only), being the 75% of the total amount due. The balance amount of 25%, which is 1/4th of the share of Rs.7,50,000/-(Rupees Seven Lakhs Fifty Thousand only) has been invested in the Social Security Deposit Scheme of AGIF, for a period of three years, as cumulative deposit, as evidenced in the letter of the third respondent herein, dated 12.09.2016.

8.In the light of the above observations and by applying the ratio held by the Hon'ble Apex Court in the case of ***Shipra Sengupta***, this Court is of the affirmed view that the petitioner herein would be entitled to receive ¼th of the insurance benefits to the tune of Rs.7,50,000/-(Rupees Seven Lakhs Fifty Thousand only), which is now said to be lying in the Social Security Deposit Scheme kept by the third respondent herein.

9.In the result, this Writ Petition stands allowed, with a direction to the respondent Nos.1 to 3 herein to pay 1/4th of the insurance amount payable to the deceased Ex.Sepoy, viz., C.Palanichamy, 17th Bihar Regiment, C/o.56 APO, ie., Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) along with accrued interest, to the petitioner herein, at least within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

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Sub Assistant Registrar(CS)

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To

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Droupathi Ghat
Allahabad(U.P)

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AGI Bhavan, Rao Dula Ram Marg
P.B No.14, Post Vasant Vihar
New Delhi 110 057.

+1 CC to Mr.S.ALAGUSUNDAR, Advocate (SR-6625[F] dated 17/02/2020)
+1 CC to Mr.S.JEYASINGH, Advocate (SR-6694[F] dated 17/02/2020)

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