IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2025

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.27899 of 2018

1 K.V.Gopi Krishna
No. 3/ 6A, Sathya Nagar, 1st Street,
Ramapuram, Chennai.

2 Minor Nandhakishore,
Father And Natural Guardian
Mr. K.V. Gopikrishna.

3 Minor Vishvapriya
Father And Natural Guardian
Mr. K.V. Gopikrishna. ..... Petitioners

Vs

1 The Managing Director and Chief
Executive Officer, IDBI Bank Limited
Corporate Centre, IDBI Tower Cuffe Parade,
Mumbai.

2 Deputy General Manager
Pf And Gratuity Section Administration
Department Corporate Centre IDBI Bank
Limited, IDBI Tower Cuffee Parade, Mumbai.

3 The Regional Head,
IDBI Bank Ltd., Regional Office,
Greams Road,Mount Road,
Chennai. .... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents 2 and 3 herein to release the Terminal and death benefits consisting of Provident Fund (employees contribution) Gratuity, Death Insurance and Group Insurance to the total sum of Rs. 22,23,953.00 (Rupees Twenty Tow Lakhs Twenty Three Thousand Nine Hundred and Fifty Three only) within such time as may be prescribed by this Court.

For Petitioner	:	Mr.R.Shenbaga Baabu
For Respondents	:	Mr.K. Balamurali for M/s.Shivakumar and Suresh.

ORDER

This Writ Petition has been filed by the petitioner seeking a Writ of Mandamus to direct the respondents 2 and 3 herein to release the Terminal and death benefits consisting of Provident Fund (employees contribution) Gratuity, Death Insurance and Group Insurance to the total sum of Rs. 22,23,953.00 (Rupees Twenty Tow Lakhs Twenty Three Thousand Nine Hundred and Fifty Three only) within such time as may be prescribed by this Court.

2.Heard, Mr.R.Shenbaga Baabu, learned counsel for the petitioner, Mr.K.

Balamurali, learned counsel for respondents 1 to 3 and perused the materials available on record.

3. The learned counsel for the petitioner submitted that his deceased wife Sunandha was working in the 1st respondent's bank and died during harness. Despite the petitioner making several representations, the terminal benefit of his deceased wife has not been settled to the petitioner.

4. The learned counsel for the respondents submitted that the terminal benefit payable to the petitioner's wife has been credited into the petitioner's account as per the information furnished by him by deducting the dues payable to the bank towards the loan availed by the deceased and other dues payable by her. It is further submitted that a sum of Rs.5,68,939/- is also a sum payable by the deceased towards the loan availed from the society and the petitioner himself has given an undertaking to deduct all the outstanding loans, etc., from the provident fund or other terminal benefits payable to her.

5. The learned counsel for the petitioner attracted the attention of this Court to Section 13 of the Payment of Gratuity Act, 1972 and claimed that no gratuity amount payable to any employee is liable to be attachment in execution of any decree or order of civil or revenue or any criminal court.

6. In the instant case, the dues payable to the respondent's bank by the deceased employee towards the loan availed by her and all other dues to be paid by her. In fact, it is the claim of the first respondent that in the account of the petitioner the terminal benefits payable to the deceased employee have been credited and the deductions were made by debiting the said amount as per the undertaking given by the petitioner.

7. No doubt, Sec.13 of the Payment of Gratuity Act,1972 gives immunity from deduction of the gratuity amount payable to an employee from executing any decree or order of the Civil, Revenue, or Criminal Court, and the deduction now made is not towards the recovery of such dues payable on the decree or order of the Civil, Revenue, or Criminal Court as contemplated under Sec.13 of the Payment of Gratuity Act, 1972. Further, the employee for whom the terminal benefits are now being paid is no more.

8. So far as the petitioner is concerned, the amount payable to the deceased employee would be the assets inherited by him as the legal heir of the deceased employee. No doubt from the assets of the deceased employee, the petitioner is liable to pay the dues payable by the deceased employee. Even now it is not the contention of the petitioner that he is going to furnish some other security for the amount liable to be payable by his deceased wife and hence, the deductions made by the respondent should be recredited in his account. His only claim is that the respondent is not liable to deduct any amount, as it is payable towards the gratuity amount payable to the employee.

9.There is a difference between the amount payable to an employee towards the gratuity amount and the very same amount payable to his or her legal heirs as the asset inherited by them. Here is a case where the petitioner just inherits the amount payable towards the terminal benefits payable to his wife on producing a succession certificate obtained from the Court. So, the petitioner cannot claim the benefit under Sec.13 of the Payment of Gratuity Act and that too without furnishing any security for the amount payable by his wife towards the dues payable to the respondents or the demands raised by any third parties like the society to the first respondent, towards the dues for the loan availed by the deceased.

10. In view of the above-stated reasons, the Writ Petition stands **dismissed.** No costs. However, it is up to the respondents to consider the representation of the petitioner and pass orders if any in the event of any interest on the provident fund is liable to be paid. Consequently, the connected Miscellaneous Petition if any is closed.

10.02.2025

Index : Yes
Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs

To

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R.N.MANJULA, J.

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