



WA(MD). No.273 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 10/02/2025

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs. JUSTICE L.VICTORIA GOWRI

WA(MD). No.273 of 2025
and CMP(MD) No.1941 of 2025

S.Saranya

... Appellant

Vs

1.The Divisional Manager,
Life Insurance Corporation of India
Divisional Office, Sellur
Madurai 625 002.

2.The Manager
Life Insurance Corporation of India
Divisional Office, Sellur
Madurai 625 002.

3.The Branch Manager,
Life Insurance Corporation of India,
Thirunagar Branch, Madurai.

4.Suseendran

... Respondents

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against
the order of this Court dated 12.12.2024 in WP(MD). No. 18770/2019.

1/10



WEB COPY



WA(MD). No.273 of 2025

For Appellant : Mr.K.Appadurai
For Respondents : Mr.D.Shanmugaraja Sethupathi
for R1 to R3
No appearance for R4

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU, J.)

The writ appeal is directed against the order of the writ Court dated 12.12.2024 in WP(MD) No.19770/2019, in and by the said order, the claim towards insurance amount for the writ petitioner/appellant was negated by the writ Court.

2. The writ petitioner is the appellant herein.

3. The writ petition has been filed for a mandamus for disbursement of the share of the life insurance amount to the appellant. The appellant claims that being the legal heir of the deceased husband, she is entitled to receive the insurance claim. However, the writ Court has dismissed the petition holding that as per Sections 38 and 39 of the Insurance Act 1938, (hereinafter referred to as, 'the Act') the nominee is entitled to claim the amount. Accordingly, the writ Court held that the 4th



WA(MD). No.273 of 2025

respondent, who is the father of the deceased and the nominee, is entitled to claim the amount. Challenging the same, the appellant is before this Court with this appeal.

4. It is the submission of the learned counsel for the appellant that though the 4th respondent is the nominee, the appellant, being the wife and her minor daughter of the appellant are the legal heirs of the deceased and hence, they are entitled to claim their share. However, the writ Court, without considering the claim of the legal heirs, directed the respondent corporation to disburse the amount in favour of the 4th respondent. In order to substantiate his contention, he has relied on a decision of the Hon'ble Supreme Court in ***Sarbati Devi and another v. Usha Devi [1984 (1) SCC 424]*** and contended that as per the decision, the nominee can only receive the amount, however, the legal heirs can claim the amount through succession.

5. We have considered the rival submissions and perused the materials available on record.



6. In ***Sarbati Devi***'s case cite supra, in Paragraph No.12, it has been

held thus:

“12. Moreover there is one other strong circumstance in this case which dissuades us from taking a view contrary to the decisions of all other High Courts and accepting the view expressed by the Delhi High Court in the two recent judgments delivered in the year 1978 and in the year 1982. The Act has been in force from the year 1938 and all along almost all the High Courts in India have taken the view that a mere nomination effected under Section 39 does not deprive the heirs of their rights in the amount payable under a life insurance policy. Yet Parliament has not chosen to make any amendment to the Act. In such a situation unless there are strong and compelling reasons to hold that all these decisions are wholly erroneous, the Court should be slow to take a different view. The reasons given by the Delhi High Court are unconvincing. We, there-fore, hold that the judgments of the Delhi High Court in Fauza Singh case and in Uma Sehgal case do not lay down the law correctly. They are, therefore, overruled. We approve the views expressed by the other High Courts on the meaning of Section 39 of the Act and hold that a mere nomination made under Section 39 of the Act does not have the effect of conferring on the



WEB COPY



WA(MD). No.273 of 2025

nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorised to receive the amount, on the 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 governing them.”

7. In yet another decision in ***Shipra Sengupta v. Mridhul Sengupta and others [(2009) 10 SCC 680]***, wherein, by placing reliance on Sarbati Devi, the Hon'ble Supreme Court had held thus:

“14. In Sarbati Devi (supra), 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 authorized 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.

15. The appellant also placed reliance on the judgment of this Court in Vishin N. Khanchandani &



WEB COPY



WA(MD). No.273 of 2025

Another v. Vidya Lachmandas Khanchandani & Another (2000) 6 SCC 724, wherein this Court held that the law laid down in Sarbati Devi (supra) holds the field 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 Aggarwala v. Delhi Administration & Others (1998) VII AD (Delhi) 639. This case related to the Delhi Co- operative Societies Act. The High Court while following Sarbati Devi case (supra) 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 authorized 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.



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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 8.11.1990 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.

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.

20. The appeal filed by the appellant is



WA(MD). No.273 of 2025

WEB COPY

accordingly allowed and disposed of, leaving the parties to bear their own costs.”

7. The facts in Sengupta's case squarely applicable to the facts of the present case. In Sengupta's case also, the appellant's husband nominated his mother before the marriage with the appellant therein. When her husband died and the appellant, who has raised the principle that any nomination made by Shyamal Sengupta prior to his marriage would automatically stand cancelled after his marriage, the Hon'ble Supreme Court had held that the nominee is entitled to receive the amount, however, the legal heirs can claim the amount in accordance with the law of succession.

8. The issue in the present case is no longer res integra. The decision cited supra is squarely applicable to the facts of the present case. In view of the categorical pronouncements of the Hon'ble Supreme Court, which holds the field, this Court is of the view that mere nomination does not have the effect of conferring the nominee any beneficial interest in the amount payable under the life insurance policy



WA(MD). No.273 of 2025

on the death of the assured. Therefore, though the nominee is entitled to receive the same, the amount so received is to be distributed according to the law of succession. It is therefore clear that nomination does not confer any beneficial interest on the nominee. In the instant case also, the nominee can receive the amount. However, the amount so received is to be distributed according to the Hindu Succession Act, 1956.

8. The writ appeal is allowed to the extent indicated above. Consequently connected Miscellaneous Petition is closed. No costs.

[J.N.B.,J]

[L.V.G.,J]

10.02.2025

NCC : Yes/No
Index : Yes/No

RR



WEB COPY



WA(MD). No.273 of 2025

J.NISHA BANU, J
AND
L.VICTORIA GOWRI J.

RR

ORDER
IN
WA(MD) No.273 of 2025

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