BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.8695 of 2025
and WMP (MD) No.6511 of 2025

M.Rajathi : Petitioner

Vs.

1. The Managing Director,
Oriental Insurance Company Ltd,
A-25/27, Asaf Ali Road,
New Delhi - 11002,
India.

2. The Branch Manager,
Oriental Insurance Company Ltd,
39/40, Simmakkal,
Madurai - 625001,
Madurai District.

3. The Managing Director,
L & T Finance,
Brindavan,
Plot No.177, Vidyanagari Marg,
CST Road,
Kalina, Santa Cruz(E),
Mumbai - 400098,
India.

4. The Branch Manager,
L and T Finance,
Anna Nagar Branch,
177/3, Gomathipuram 1st Street,
Melamadai,
Madurai, Madurai District.

5. J.Jeyashree : Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 1 to 4 to sanction and disburse half of the insurance amount of late Mr.Sivanesan's life insurance that is insured under the GPA, in favour of the petitioner herein for which she is legally entitled as per section 8 of the Hindu succession Act by accepting the legal heir certificate.

For Petitioners : Mr.A.Mohamed Ashfalk
For Respondents : Mr.C.Karthik for R1 and R2

O R D E R

This Writ Petition has been filed for a direction to the respondents 1 to 4 to sanction and disburse half of the insurance amount of late Mr.Sivanesan's life insurance insured under the GPA, in favour of the petitioner for which she is legally entitled as per Section 8 of the Hindu succession Act, by accepting the legal heir certificate.

2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself. Having regard to the nature of the order proposed to be passed in this writ petition, notice to the respondents 3 to 5 is dispensed with.

3. When the matter was taken up for hearing, the learned counsels on both sides, submitted that the issue involved in this writ petition is squarely covered by the order of this Court dated 09.12.2020, passed in W.P.(MD) No.8716 of 2019. The relevant portion of the order is extracted hereunder:

> "8. The amount that may be received by the nominee would form part of the estate of the deceased and the same should be distributed as per the rule of succession, to which, the parties are governed. This has been settled as early as in 1984 in ***Smt. Sarbati Devi and another vs. Smt.Usha Devi*** reported in ***AIR 1984 SC 346***. In the said judgment, the conflict between the law of succession and the right of the nominee under Section 39 of the Insurance Act, 1938, has been discussed. In paragraph 12 of the said judgment, it has been held as follows:

"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, therefore, hold that the judgments of the Delhi High Court in Fauza Singh case [AIR 1978 Del 276] and in Uma Sehgal case [AIR 1982 Del 36 : ILR (1981) 2 Del 315] do not lay down the law correctly. They are, therefore, overruled. We approve the views expressedby 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 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."

9. As held by the Hon'ble Apex Court in the above decision, when the nominee is only an authorised person to receive the amount and distribute in accordance with the law of succession, the second respondent, who is a nominee, cannot have any right over the said amount.

...

11. It is also pertinent to note that in the affidavit filed in support of the writ petition, in paragraph 5, it has been stated that the second respondent is attempting to appropriate the entire insurance amount by colluding with first petitioner's mother in law. Be that as it may, if the mother in law of the first petitioner, who is the mother of the deceased, is alive, she is also entitled to an equal share in the policy amount as clause I heir of the deceased. The second respondent, is only a nominee, who is authorised to receive the insurance amount in trust and distribute among the legal heirs as per law of succession. The petitioners have specifically alleged that the second respondent is attempting to deny the lawful entitlement of the petitioners. Therefore, it would be appropriate to direct the first respondent to directly release the amount in favour of the petitioners."

4. It is a well-settled principle that a nominee is only a Trustee holding the amount on behalf of the actual beneficiaries and does not have any vested right or interest on the same. The fifth respondent, is only a nominee, who is authorised to receive the insurance amount in trust and distribute among the legal heirs as per law of succession. The petitioner has specifically alleged that the fifth respondent is attempting to deny the lawful entitlement of the petitioner.

5. In view of the same, this writ petition stands disposed of by directing the respondents 1 and 2 to release the equal share of the insurance amount to the petitioner payable under the GPA of the deceased son of the petitioner, in accordance with the applicable law of Succession. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

01.04.2025

Index : Yes / No
Internet : Yes / No

PKN

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VIVEK KUMAR SINGH, J.

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