

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

SMA 235 of 2002

Date	Order with Signature of Judge(s)
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1. For hearing of CMA No.1137/2016.
2. For orders on Nazir report dated 24.04.2019.

10.02.2020

Mr. Waqar Ahmed, advocate for the petitioner.
Mr. Abdul Qadir Anwar, advocate for the legal heirs.

This is an application whereby the petitioner submits that post mortem benefits are not part of the legacy of the deceased, therefore, she is entitled to receive the same from relevant authorities, to the exclusion of the remaining legal heirs of the deceased. The affidavit in support raises the singular ground that this application may be granted in view of the financial hardships being faced by the petitioner.

Learned counsel for the legal heirs submits that it is an admitted fact that nominee/beneficiary of the benefits under discussion is mother of the deceased. At this juncture, a question was put to the learned counsel for the petitioner to verify if this statement is correct, he has responded to the same in affirmative.

Learned counsel for the legal heirs further submits that under the Federal Government Benevolent Fund and Group Insurance Act, 1969, it is the nominee who is to receive the proceeds. It is pointed out that the application under consideration itself states that funds under scrutiny are to be paid to the nominee, therefore, in view of the admitted position that the petitioner is not the nominee / beneficiary no amount can be released thereto.

The preponderance of case law¹ demonstrates that benefits, inclusive of proceeds of life insurance policy, are defined as grant and concession payable only after death of employee, hence cannot be treated as heritable by the legal heirs of a deceased but are to be distributed to those entitled as beneficiary/nominee. It is settled law that whatever benefits an employee can claim from its employer during his life time are to be treated as part of *tarka* and being inheritable are to be distributed amongst the legal heirs according to *shariah*. However, amounts which the employee was not entitled to claim from his employer during his life time did not form part of the heritable estate and can only be handed over to the beneficiary/nominee².

¹ *PLD 2010 Karachi 153; Muhammad Javed & Another vs. Mst. Roshan Jahan reported as PLD 2019 Sindh 1.*

² *Mst. Aqila vs. Federation of Pakistan and Others (CP No.D-2488 of 2018) dated 25.07.2019.*

Admittedly, the petitioner has not been nominated as the beneficiary in respect of the post mortem benefits, listed in the application under scrutiny and no cogent reasons have been advanced to demonstrate any entitlement of the petitioner to the benefits claimed.

In view hereof, no grounds are made out for grant of this application, which is hereby dismissed.

JUDGE

Khuhro/PA