

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

SMA No.227 of 2018

Date

Order with Signature of Judge(s)

For further orders on Nazir's reference dated 26.10.2019.

23.01.2020

Syed Ahmed, advocate alongwith petitioner Ms. Quratul Ain Dilshad Khan.

Nazir reference is taken on record subject to all just exceptions.

Learned counsel submits that this petition was granted vide order dated 12.09.2018. It is further submitted that the share of the petitioner/legal heir and wife of the deceased and that of the mother of the deceased has already been released thereto. However, it is pointed out that the share of the minor legal heirs has been retained by the Nazir of this court, invested in profit bearing securities for treatment in accordance with law.

Learned counsel submits that all that remains to be concluded herein is the treatment of the proceeds of the life insurance of the deceased, which amounts have already been deposited by the relevant companies with the Nazir of this court.

Learned counsel submits that the amounts pertaining to the life insurance of the deceased did not form a constituent of the inheritable estate of the deceased and the same is to be distributed to the beneficiary/nominee. Learned counsel draws attention to the order of this court dated 17.09.2019, wherein it is specifically recorded that the benefits, inclusive of proceeds of 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 noted from the aforesaid order that the learned Single Judge had bolstered this observation by reliance upon the case reported as *PLD 2010 Karachi 153*. Learned counsel submits that the aforementioned observation is in due consonance with the law and in support of the said contention relied upon judgment of *Muhammad Javed & Another vs. Mst. Roshan Jahan* reported as *PLD 2019 Sindh 1*, wherein it has been held 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/nominee. Learned counsel has also placed before this court a copy of the Division

Bench order of this court in the case of *Mst. Aqila vs. Federation of Pakistan and Others (CP No.D-2488 of 2018)* dated 25.07.2019, wherein the aforesaid principle has been maintained.

Learned counsel adverts to the Nazir report dated 26.10.2019, wherein it is specifically stated that Unilever Pakistan Limited had no objection if the relevant dues in respect of the deceased were released to the nominee, being the petitioner herein. The nomination form, wherein the petitioner is duly nominated, is also attached with the Nazir's report.

In view hereof, learned counsel submits that since it is, prima facie, manifest from the record that the petitioner is sole beneficiary/nominee of the proceeds of the life insurance of the deceased, as confirmed from the documents filed before the court, then the subject amount may be released thereto.

In view of the order of this court, dated 17.09.2019, preponderance of authority¹ and the Nazir's report along with supporting documentation, it appears that this request is reasonable. Nazir of this court is directed to release the proceeds of the life insurance, received from Unilever Pakistan Limited, to the petitioner after proper verification, identification and a valid receipt.

With respect of the proceeds of life insurance, received by the Nazir from Kantar Millward Brown, it is noted that the Nazir has annexed certain letters and documents, however, no nomination is apparent therefrom, nor is there any clarity with respect to the policy of the relevant company in such regard. This observation has also been contained in order dated 17.09.2019. Nazir's reference does not address the query raised by this court vide the order dated 17.09.2019, in this regard, therefore, the Nazir is directed to file a fresh report and intimate this court with supporting documentation, with regard to the designated beneficiary in respect of the life insurance proceeds from the Kantar Millward Brown and/or the relevant policy/regulations in such regard. Nazir report shall be filed before this court prior to the next date of hearing.

Adjourned to 13.02.2020 @ 11:30 am.

JUDGE

Khuhro/PA

¹ PLD 2014 Sindh 290; 2014 CLC 126; PLD 1991 SC 731; PLD 2015 Sindh 360.