

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

MISCL. Appeal NO.S-05 of 2021.

Zameer Hussain Son of Muhammad Suleman Narejo  
 by caste Narejo, Muslim Adult, resident of  
 Village Haji Ali Muahmmad Narejo,  
 Taluka Gambat, District Khairpur.  
 Current Address at resident of flat No. C-110 decent Garden  
 Near Johar Complex University Road Karachi being the  
 attorney of the Father namely Muhammad Suleman S/O Muhammad  
 Safar and Mother Namely Nihalan Khatoon W/O Muhammad  
 Suleman Narejo who are the legal heirs of the deceased  
 Namely Manzoor Hussain Narejo(Late). . . . . **APPELLANT**

**VERSUS**

1. Deputy Director, Admin Intelligence Bureau (IB) Govt.  
 of Pakistan Sindh Province head Quarters Karachi.
2. Learned Additional District Judge Gambat.
3. Mst. Zareena Khatoon W/O Manzoor Hussain Narejo D/O  
 Muhammad Ismil Narejo permanent address R/o Village  
 Haji Ali Muhammad Narejo U/C ripri current address R/O  
 Memon Floor Mill Kisan Kolony Gamabt, District Khairpur.  
 . . . . . **RESPONDENTS**
4. Manager HBL Zamzama Branch Karachi.  
 . . . . . **PRO-forma RESPONDENT**

**APPEAL U/S 299 R/W SECTION 384**  
**OF THE SUCCESSION ACT.1925.**

**Order Sheet**  
**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

**M.A. No. 05 of 2021**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on C.M.A. No. 639/2021.
2. For orders on C.M.A. No. 822/2021.
3. For hearing of main case.
4. For hearing of C.M.A. No. 640/2021.

**Date of Hearing**  
**25.04.2022**

Mr. Parvez Ahmed Kubar, Advocate for the applicant.  
Mr. Munawat Hussain Memon, Advocate for widow of deceased  
namely Mst. Zareena.  
Mr. Ali Raza Balouch, A.A.G.

**ORDER**

**ARSHAD HUSSIN KHAN, J.-** This Miscellaneous Appeal, under Section 299 r/w Section 384 of the Succession Act, 1925, is directed against the order dated 15.04.2021, passed by learned Additional District Judge, Gambat, whereby the application of appellant by treating as application for extended succession certificate was allowed only to the extent of G.P. fund of deceased son of appellant being part of Tarka, which was to be distributed to the three legal heirs of the deceased including widow and two parents as per their respective shares in accordance with the Muhammadan law.

2. The counsel for appellant contends that widow of the deceased was only nominated for the provident fund and nothing for other dues/benefits and she is wrongly taking monthly pension of her deceased husband whereas the same should have been given to the parents as well being one of the legal heirs of the deceased as deceased was issueless and father and mother are also entitled to receive all benefits as per Muhammadan Law as well as Law of Inheritance. He further contends that as per law of inheritance the widow is entitled to receive  $\frac{1}{4}$  (25%) while rest of the 75% shares are the shares of father and mother i.e.  $\frac{1}{2}$  (50%) and of real mother i.e.  $\frac{1}{4}$  (25%) which is left behind



*[Handwritten signature]*

by the deceased in respect of the benefits including monthly pension given/paid by the I.B Department only to the widow of deceased.

3. On the other hand, Mr. Munawar Hussain Memon, learned counsel appearing for widow of deceased namely Mst. Zareena files Vakalatnama and contends that vide order dated 27.05.2017, learned Additional District Judge allowed the succession petition in respect of the amount Rs.135000/- to be distributed amongst legal heirs viz. appellant Muhammad Suleman (father), Mst. Nehalan (mother) and Mst. Zareena (widow), however, with regard to the other benefits it was ordered that department is competent to decide the matter according to rules and regulations of the department, however, IB released the amount on the basis of nomination, made by the deceased during service for release of the amount, therefore, appellant has no right to claim any such amount as Mst. Zareena, widow of the deceased, is solely nominee of the deceased and surviving legal heir being his widow.

4. Heard the parties learned counsel and perused the material available on the record.

5. It appears that the appellant filed S. M.A. No.01 of 2017, under Section 372 of the Succession Act,1925, for grant of Succession/ Letter of Administration in respect of debts and securities of the deceased- Muhammad Manzoor Hussain Narejo, who was an employee of IB, died during his service. The S.M.A. was granted by the learned Additional District Judge, Gambat, vide order, dated 27.05.2017. For convenience sake the operative part of the order is re-produced as under:

*"In view of the above discussions, I allow the Succession Petition, in respect of the amount Rs.135,000/- lying with the HBL Zamzama Branch, Karachi and I authorized to the petitioner to receive the said amount and distribute in between legal heirs of the deceased namely Mst. Zareena Khatoon (widow), Muhammad Suleman (father) and Mst. Nehalan Khatoon (mother), according to Muhammadan Law, after receipt of the amount from the concerned bank within seven days and submit such receipts before this Court. As regard the benefits of the department, the department is competent to decide the matter, according to Rules and Regulations of the department. The both parties are directed to approach the concerned department, accordingly. The Succession Certificate be issued to the applicant subject to furnishing solvent surety in the sum of Rs.150,000/- and PR bond in the like amount.*



6. Subsequently, the appellant filed another application u/s 151 CPC wherein he sought distribution of retirement benefits of the deceased amongst his legal heirs. The said application was allowed by learned Additional District Judge, Gambat, as extended Succession Certificate to the extent of GP fund of deceased being part of Tarka to be distributed to the three legal heirs of deceased including widow and two parents as per their respective shares in accordance with the Muhammadan Law while other benefits were not the part of Tarka and his employer IB has already paid the total amount. For the sake of convenience the relevant portion of the order dated 15.04.2021 is re-produced as under:

*"I have heard learned counsel for the petitioner and have perused the record. The deceased has been shown to be entitled to receive GP Fund of Rs.2047373/- Provisional lump-sum grant of Rs.438637/-, PM Assistance Package for death in service of Rs.1500000/-, In lieu of plot Rs.50,00,000/- PIBEWA Rs.375000/- Funeral Charges of Rs.1000,000/-.*

*In the reported case of PLD 2019 Sindh 1, it was held that "that principle settled is that an employee during his life time is entitled to withdraw or get the financial benefits from an employer than all such benefits could be termed as 'Tarka', whereas financial benefits offered by the employer which only mature or are to be given after his death, those financial benefits will not form part of 'Tarka'.*

*Out of above benefits of said deceased he could have only withdrawn his GP Fund while other benefits detailed above only matured on his death hence those were not the part of Tarka and his employer IB has already paid the total amount of those.*

*In view of above, this application is treated as application for extended succession certificate and is allowed only to the extent of GP Fund of Rs.2020138/- of said deceased. Said amount being part of Tarka shall be distributed as per their respective shares in accordance with the Muhammadan Law".*

7. From perusal of the impugned order, it appears that learned Addl. District Judge, Gambat, while passing the order has clearly defined 'Tarka' keeping in view the decision of this Court in the case of *Muhammad Javed and another v. Mst. Roshan Jahan and 2 others* [PLD 2019 Sindh 1], as such, the impugned order does not suffer from any illegality or irregularity requiring any interference of this Court under its appellate jurisdiction. Hence, instant appeal being devoid of any merit is dismissed accordingly, along with listed applications.



CERTIFIED TO BE TRUE COPY

TYPED BY

COMPARED BY 16/05/22

READ BY

ASSISTANT REGISTRAR. 16/5/22

Sd/-  
ARSHAD HUSSAIN KHAN  
JUDGE