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ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Civil Succession Appeal No. S- 01 of 2014.

Date of hearing	Order with signature of Judge
27.10.2015.	

1. For orders on office objections.
2. For orders on C.M.A. No. 78/2014.
3. For Katcha Peshi.

Mr. Ghulam Rasool Abro, Advocate for appellants.
Mr. Muhammad Hashim Soomro, Advocate for respondent No.1.

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Through instant succession appeal, appellants have challenged Order dated 28.11.2013. For the sake brevity operative part of the impugned order is reproduced as under:

“From the perusal of record it appears that deceased Khan Muhammad Mangi, employee of Pakistan Steel Mill, died issueless and the petitioner alongwith herself mentioned the names of legal heirs with relation in the memo of succession petition. Firstly, I would like to discuss here about the denial of entitlement of petitioner Mst. Aziz Khatoon by respondents No.1 to 3, from the perusal of record it appears that the deceased himself nominated Mst. Aziz Khatoon in the nomination documents by showing her as his wife and the petitioner annexed a copy of letter dated 20.04.2010 issued by concerned officer of Pakistan Steel and respondent No.4 is sister and deceased Khan Muhammad, has also raised no objection on the entitlement of the petitioner as wife of deceased Khan Muhammad Mangi, even otherwise respondents No.1 to 3 have not disputed the nomination of applicant being wife of deceased, therefore, this point is clear. Now the controversy to be resolved in this litigation related to the sums of money payable on account of G.P. Fund, Benevolent fund, Group Insurance and Pension to the heir of deceased Khan Muhammad. It is well settled that service benefit of an employee, which had not fallen due in his life time and being a grant or concession on the part of employee of whatever amount, the same would become payable after the death of employee to be distributed only to the members of family who are entitled for the same as per rules and regulations of service. It has been held by the





Honourable Federal Shariat Court in case law reported in PLD 1981 Federal Shariat Court 143 that "Provident fund, if not paid to a deceased employee during his life time, become part of heritable assets and despite nomination by the deceased employee is to be distributed among all legal heirs according to the perusal of law of the deceased employee". It as been further held in respect of death gratuity and family pension that "These financial benefits are to be treated as a gift or concession given by the Government in order to maintain the widow or certain members of the family of the deceased and therefore, are not heritable by all the heirs of the deceased but are payable only as per the rules which governs the distribution of death gratuity and it was held in PLD 1991 SC 731 that the sum payable on account of Group Insurance and Benevolent Funds are not heritable, however G.P fund is heritable.

After going to the above discussion, I have come to the conclusion that only the benefit of G.P. Fund is heritable and is to be distributed among all legal heirs according to law, while for other benefits only petitioner Mst. Aziz Khatoon is entitled. The succession petition of Mst. Aziz Khatoon is hereby allowed in terms of above judgment of apex Courts hence she is entitled to get the pension of deceased and also is entitled to get the other service benefits together with her share of G.P. Fund according to Shariah. Hence, concerned official of Steel Mill Karachi are directed to distribute the amount of G.P. Fund amongst all legal heirs alongwith petitioners according to respective share as per law. Let such succession certificate be issued."

2. Heard learned counsel for respective parties. At the outset learned counsel for the appellants has taken plea that the respondent No.1 was not wife of the deceased Khan Muhammad Mangi, in-fact she arranged/managed fake documents in order to deprive the appellants from their legal share with benefits of deceased Khan Muhammad Mangi, as he was serving in Pakistan Steal.

3. In contra, learned counsel for respondent No.1 contends that applicants filed S.M.A. before Principal Seat of this Court as well as transfer application and such S.M.A was also transferred to



Larkana and accordingly succession application and such S.M.A. were amalgamated and decided by impugned order. Pakistan Steel was in contact with respondent No.1 after death of her husband (deceased Khan Muhammad Mangi), and correspondence was made with her.

4. Perusal of impugned order reflects that trial Court has rightly resolved the issue with regard to service benefits left by deceased as same are payable to the nominee and family members, by relying upon judgment reported in PLD 1981 Federal Shariat Court 143.

5. With regard to plea of learned counsel for applicants that Mst. Aziz Khatoon/ respondent No.1 was not wife of deceased Khan Muhammad Mangi, in-fact she was "keep" and she managed false documents. Since proceeding of succession application were in summary in nature, if applicants has such grievance that Mst. Aziz Khatoon was not wife of the deceased, they are at liberty to approach Civil Court for redressal of their grievance. Learned counsel for respondent No.1 contends that respondent No.1 has right to file suit for damage on this false and immoral allegation.

6. The succession appeal stands dismissed.

Judge