

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

H.C.A No.112 of 2024

**[Muhammad Saleem Mangi through Legal heirs v. United Bank Limited
and another]**

Order with signature of Judge(s)

Present:
Mr. Justice Muhammad Iqbal Kalhoro
Mr. Justice Muhammad Osman Ali Hadi

Hearing of case

1. For orders on office objection at 'A'
2. For hearing of main case

22-05-2025

M/s. Mukesh Kumar G. Karara and Sajid Ali Channa, Advocates for
the appellants

Mr. Faiz Mehmood Durrani, Advocate for respondent No.1

None present for respondent No.2

JUDGMENT

Muhammad Iqbal Kalhoro, J:- Appellant filed a suit bearing No.302 of 2010 for recovery of Rs.150,000,000/- (Rupees Fifteen Crores) as damages for malicious prosecution against respondent-bank. During pendency of the suit, he passed away. When this fact was confronted to the learned counsel for the plaintiff/appellant in the backdrop of maintainability of the suit he conceded that as far as claim for damages was concerned it was no longer maintainable under the circumstances. However, still he maintained that the suit can survive for recovery of service benefits of the deceased, which according to the plaintiff's counsel, were still outstanding against the bank.

2. Learned counsel for the appellant has reiterated the said argument before us. The rebuttal of this argument voiced by the learned counsel for respondent No.1 is that in the entire suit such claim was not made by the plaintiff himself. He did not ask for recovery of his service

benefits, which according to him, is an independent cause of action and may be inheritable by his legal heirs, but in a separate *lis*.

3. We have seen that in the prayer clause late plaintiff had not sought service benefits and had filed the suit exclusively for recovery of damages for malicious proceedings, which cause of action on account of his death, stands abated and is *prima facie* not inheritable. Even, if the legal heirs are allowed to continue the suit, it would not be possible for them to establish personal pain and sufferings allegedly suffered by the late plaintiff. However, we still think that the legal heirs of the plaintiff can maintain the suit for recovery of his service benefits. Therefore, while disposing of this appeal we put the legal heirs of plaintiff/appellant at liberty that if they are so advised, may file such suit before a relevant civil court, which shall proceed with the merit and decide it in accordance with law without adverting to the question of limitation, if any, as the legal heirs have been agitating this Appeal since 2024.

The HCA is accordingly disposed of.

JUDGE

JUDGE