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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.41538 of 2023

In the matter of an application under Article 226 and 227 of the Constitution of India, 1950.

.....

Snigdha Patnaik @ Mohanty .... **Petitioner**

-versus-

General Manager, Circle Office, Canara Bank, BBSR & Others .... **Opposite Parties**

For Petitioner : M/s. D.K. Mohapatra, Advocate

For Opp. Parties : M/s. B. Udgata, Advocate
(Opp. Party No.2)
Mr. B. Bhuyan, Sr. Advocate
(Opp. Party No.3 (b)

PRESENT:

THE HONBLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 28.11.2025 and Date of Judgment: 20.01.2026

Biraja Prasanna Satapathy, J.

1. The present Writ Petition has been filed inter alia with the following prayer:

> *Under above circumstances, it is therefore prayed that your lordship may kindly be gracious enough to admit the writ application and issue Rule NISI calling*

upon the Opp. Parties No.1 & 2 and direct them to release the settlement of death claims and terminal benefits as well as other deposits dues of the deceased husband – Sri Subhransu Mohanty payable to the Petitioner as entitled to get from the Bank, being legally married wife of the deceased husband and thereby quashing the letter dated 30.11.2023 issued by the Divisional Manager, Canara Bank under Annexure-6 for the interest of justice.

And any other order/orders, direction/directions may be issued so as to give complete relief to the Petitioner;

And for which act of kindness, the Petitioner shall as in duty bound ever pray.

2. Learned counsel appearing for the Petitioner contended that Petitioner is the legal married wife of late Subhransu Mohanty, the marriage having been taken place as per Hindu rites and customs on 06.07.2014. It is also contended that out of the wedlock of the Petitioner with late Subharansu Mohanty, Petitioner was blessed with a daughter.

2.1. However, seeking a Decree for dissolution of the marriage, Petitioner's late husband moved the learned Judge, Family Court, Bhubaneswar in C.P. No.634 of 2015. On being noticed in the aforesaid proceeding, Petitioner duly appeared and made an application for grant of interim maintenance under Section 24 of the Hindu Marriage Act. The said application was allowed by

the learned Family Judge and deceased husband of the Petitioner was directed to pay interim maintenance of Rs.10, 200/- w.e.f 09.08.2016. Learned Family Judge also directed for payment of Rs.3, 000/- towards cost of the litigation vide order dt.18.11.2017 under Annexure-2.

2.2. Learned counsel appearing for the Petitioner contended that during pendency of the proceeding, Petitioner's husband however died on 18.09.2023. On such death of her husband, Petitioner moved an application before the learned Family Judge inter alia with a prayer to drop the proceeding in C.P. No.634 of 2015. The said application was allowed by the learned Family Judge vide order dt.11.10.2023 under Annexure-3 series. Order dt.11.10.2023 was never assailed also.

2.3. It is contended that since Petitioner's late husband was working under the Opp. Party-Bank, on the death of her husband on 18.09.2023, Petitioner made an application on 21.09.2023 under Annexure-4, inter alia with a prayer to release all the death benefits as due to the deceased employee in her favour. As no action was taken on such application of the Petitioner, Petitioner again

made another application on 12.12.2023 enclosing therein the Death Certificate of her husband as well as the order passed by the learned Family Judge on 11.10.2023, wherein the Proceeding filed by the deceased husband in C.P. No.634 of 2015 was treated as dropped.

2.4. Learned counsel appearing for the Petitioner contended that vide the impugned letter dt.30.11.2023 under Annexure-6, when Petitioner was intimated that terminal benefit of her late husband will be dealt with as per the provision of the Nomination Rules of the Bank/RBI/Government, on the ground that the deceased employee had registered his mother as a nominee, challenging such communication of the bank, so issued under Annexure-6, the present Writ Petition was filed.

2.5. It is contended that this Court while issuing notice of the matter vide order dt.20.12.2023, passed an interim order to the effect that no further action, pursuant to Annexure-6 be taken without leave of the Court till the next date. However, vide order dt.19.02.2024; the Writ Petition was disposed of inter alia directing the Opp. Party-Bank to take a decision on the claim raised by the

Petitioner to get the terminal benefit of her deceased husband.

2.6. It is contended that since by the time the Writ Petition was disposed of finally vide order dt.19.02.2024, the nominee/Opp. Party No.3 had already died on 13.01.2024, an interim application was filed seeking intervention, as order dt.19.02.2024 has been passed against a dead person. However, this Court while taking up the matter in I.A. Nos.11945 of 2024 and 13297 of 2024 passed an order on dt. 01.10.2024, by directing the bank not to disburse the amount in question without leave of the Court.

2.7. It is contended that ultimately vide order dt.07.05.2025, this Court was pleased to recall order dt.19.02.2024. However, interim order passed on 01.10.2024 was allowed to continue. It is also contended that vide order dt.17.07.2025, this Court passed an order directing the Opp. Party-Bank to release the residue amount of Rs.9,33,420/- in favour of the present Petitioner, as the terminal benefit as due to the deceased employee to the extent of Rs.40,74,577.26p. was already

credited to the account of the nominee/deceased-Opp. party No.3 by the bank, after adjustment of loan liability of the deceased employee to the tune of Rs.22,16,158.31p.

2.8. Learned Counsel appearing for the Petitioner contended that since Petitioner is the legal married wife of the deceased employee, in view of the provisions contained under Section 8 of the Hindu Succession Act, Petitioner is entitled to get the terminal benefits as due to the deceased employee. Section 8 of the Act reads as follows:

> ***8. General rules of succession in the case of males.—***
>
> *The property of a male Hindu dying intestate shall devolve according to the provisions of this Chapter—*
>
> *(a)firstly, upon the heirs, being the relatives specified in class I of the Schedule*
>
> *;(b)secondly, if there is no heir of class I, then upon the heirs, being the relatives specified in class II of the Schedule;*
>
> *(c)thirdly, if there is no heir of any of the two classes, then upon the agnates of the deceased; and*
>
> *(d)lastly, if there is no agnate, then upon the cognates of the deceased.*

2.9. It is contended that as provided under Section 8(a) of the Hindu Succession Act, 1956 (hereinafter referred as "the Act"), the property of a male Hindu, dying intestate

shall devolve firstly, upon the heirs, being the relatives specified in Class-I of the Schedule. It is contended that Petitioner being the wife and a Class-I heir of the deceased-employee, in view of the provisions contained under Section 8(a) of the Act, Petitioner only became eligible and entitled to get all the terminal benefits as due to the deceased employee.

2.10. But the Opp. Party-bank without proper appreciation of the status of the Petitioner and the provision contained under sec 8(a) of the Act, issued the impugned communication under Annexure-6, indicating therein that the amount will be released in favour of the nominee as per nomination Rules. Accordingly, it is contended that Opp. Party-Bank be directed to release all the terminal benefits as due to the deceased employee with quashing of Annexure-6 in favour of the petitioner.

3. Mr. B.N. Udgata, learned counsel appearing for the Opp. Party-Bank on the other hand made his submission basing on the stand taken in the counter affidavit so filed.

3.1. It is contended that the deceased-employee while serving under the Bank had nominated his mother Susama Mohanty-deceased Opp. Party No.3, as the nominee. After the death of the deceased employee on 18.09.2023, the bank after adjusting the loan liability of the deceased-employee to the tune of Rs.22, 16,158.31p. credited a sum of Rs.40,74,577.26p to the account of the nominee Opp. Party No.3.

3.2 The terminal benefit of the deceased employee though was calculated at Rs.62,90,735.57p, but after adjustment of the loan liability to the tune of Rs.22,16,158.31p, amount to the tune of Rs.40,74,577.26p. was credited to the account of Opp. Party No.3, lying with the Opp. Party- Bank. Opp. Party No.3 prior to her death on 13.01.2024, had already withdrawn an amount of Rs.6, 70,000/- from out of the deposit made by the Bank. However, in view of the interim order passed by this Court on 01.10.2024, no further amount has been released from the said account.

3.3 It is further contended that in terms of order dt.19.02.2024 so passed by this court and prior to its

recalling vide order dt.07.05.2025, the bank vide order dt.10.01.2025 under Annexure-A to the counter affidavit, held the Petitioner eligible to receive the remaining service benefits to the tune of Rs.9,33,450.20p. towards full and final settlement of the claim in favour of the Petitioner.

3.4 It is also contended that pursuant to the order passed by this Court on 17.07.2025, the aforesaid amount of Rs.9,33,450.20p. had already been released in favour of the Petitioner. However, out of the total amount credited to the account of the deceased-Opp. Party No. 3 to the tune of Rs.40,74,577.26p., after withdrawal of a sum of Rs.6,70,000/- by the deceased Opp. Party No.3, prior to the death, the balance amount is lying in the account of the said deceased-Opp. Party No.3 and it has not been released in anybody's favour as yet.

3.5. It is however contended that since Opp. Party No.3 was nominated by the deceased-employee, in terms of the provisions governing the field, the terminal benefit of the deceased-employee was credited to the account of deceased Opp. party No.3 and no fault can be found with

such action of the bank. However, it is contended that the bank will take further action with regard to release of the amount, so lying in the account of deceased Opp. Party. No.3. as will be decided by this Court.

4. Because of the death of the Opp. Party No.3 and in consideration of the application filed by the Petitioner, Opp. Party No.3(a) to 3(c) were substituted vide order dt.28.11.2025 of this Court.

5. Mr. Bibekananda Bhuyan, learned Sr. Counsel appearing for Opp. party No.3 (b), however made his submission basing on the stand taken in the counter affidavit so filed.

5.1. Learned Sr. Counsel appearing for Opp. Party No.3(b) contended that deceased Opp. Party No.3 being the nominee of the deceased-employee, the terminal benefit as due to the deceased employee was rightly credited to her account by the bank to the tune of Rs.40,74,577.26p. with due adjustment of the loan liability to the tune of Rs.22,16,158.31p.

5.2 It is however contended that since after such credit of the amount to the account of deceased-Opp. party No.3, she died on 13.01.2024, in view of the provisions contained under Sections 14 & 15 of the Hindu Succession Act, Opp. Party No.3 (a) to 3(c) became eligible and entitled to get the amount lying in the account of deceased Opp. Party. No.3.

5.3 It is contended that since after credit of the amount to the account of the deceased-Opp. Party No.3, she died on 13.01.2024, in view of the provisions contained under Section 14, the said property of deceased Opp. party No.3, became her absolute property. Section 14(1) of the Act reads as follows:

14. Property of a female Hindu to be her absolute property.—

(1)*Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Explanation.—In this sub-section, "property" includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.*

5.4. It is further contended that since deceased-Opp. Party No.3 after being credited with the amount by the Bank, died on 13.01.2024 and she became the absolute owner of the property, in terms of Sec 14(1) of the Act, in view of the provisions contained under Section 15 (1) of the Act, Opp. Party No.3 (a) to 3(c) became eligible and entitled to get the benefit of the said property. Section 15(1) (a) of the Act reads as follows:

> ***15. General rules of succession in the case of female Hindus.—***
>
> *(1)The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—*
>
> *(a)firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;*

5.5. Reliance was also placed to the provisions contained under Section 16 of the Act. Placing reliance on the said provision, it is contended that order of succession among the heirs referred to in Section 15 of the Act, shall be, and the distribution of the intestate property among those heirs, shall take place according to the Rules so provided under Section 16 of the Act. It is accordingly contended that the amount so credited to the account of

deceased-Opp. Party No.3, being the absolute property of the said deceased-Opp. Party No.3, Opp. Party No.3(a) to 3(c) are eligible and entitled to get the benefit and Petitioner has got no right over the said property.

5.6. Learned Sr. Counsel appearing for Opp. Party No.3(b) made further submission placing reliance on the provisions contained under Section 39 (7), (8) & (10) of the Insurance Act, 1938. Placing reliance on the provisions contained under Section 39(7) of the Act, it is contended that Opp. Party No.3 being the nominee, nominated by the deceased-employee, she shall be the beneficiary entitled to the amount payable by the insurer to him.

5.7. Similarly, placing reliance on the provisions contained under Section 39(8) of the Act, it is contended that after credit of the benefits to the account of deceased-Opp. party No.3, since she died on 13.01.2024, the amount secured by the Policy as the share of the nominee, shall be payable to the heirs of all the legal representatives of the nominee. Opp. party Nos.3 (a) to 3(c) being the legal heirs of deceased Opp. Party No.3, in

view of the provisions contained under Section 39(8) of the Act, they are eligible and entitled to get the benefit of the property so belong to deceased-Opp. Party No.3. It is also contended that provisions contained under sub-section 7 & 8 of Sec 39 of the Act, in view of the provisions contained under sub-section 10, shall apply to all policies of Life Insurance, maturing for payment, after the commencement of Insurance Laws (Amendment) Act, 2015.

5.8. Learned Sr. Counsel accordingly contended that since prior to the death of the deceased-Opp. Party No.3 on 13.01.2024, the terminal benefit as due to the deceased-employee, had already been credited to the account of the deceased Opp. Party No.3, in view of the provisions contained under Sections 14, 15 & 16 of the Hindu Succession Act read with Section 39(7), (8) & (10) of the Insurance Amendment Act 2015, Opp. Party No.3 (a) to 3(c) being the legal heirs of the nominee, are eligible and entitled to get the amount so lying in the account of deceased-Opp. Party No.3. In support of his submission, learned Sr. Counsel relied on the following decisions:

1. Shweta Singh Huria and Others *Versus* Santosh Huria and Another, 2021 SCC OnLine Del 2492

2. K.R. Sakthi Murugeswari Vs. Divisional Manager Divisional Office, Life Insurance Corporation of India & Others. (2023 SCC Online Mad 8397:(2023) 2 writ LR 725: (2023) 6 Mad LJ 263:2023) 5 LW 405: (2023) 6 CTC 624)

5.9. Hon'ble Delhi High Court in the case of ***Shewta Singh Huria*** in paragraphs-28,31 & 33 has held as follows:

28. *However, the contention of the Appellant is that Section 39 of the Insurance Act, 1938 was amended by The Insurance Laws (Amendment) Act, 2015 which has come into force w.e.f 26.12.2014 and by virtue of amended sub-section (7) of Section 39, nominee has a beneficial interest in the amount payable under the Life Insurance Policy, on the death of the assured and no longer remains a mere receiver nominee, whose rights under the unamended Section were subject to rights and claims of the legal heirs under the law of succession.*

31. *As is evident from a reading of the recommendations of the Law Commission, a distinction was carved out between 'beneficiary nominee' and 'collector nominee' and Section 39 of the Insurance Act, 1938 was amended accordingly, adding sub-Section (7). Beneficiary nominee means a nominee who was entitled to receive the entire proceeds under an insurance policy and a collector nominee means a nominee other than a beneficiary nominee. Keeping this distinction in mind, sub-section (7) of Section 39 was carefully and cautiously drafted and the words used by the legislature are 'beneficial interest'.*

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33. *In the present case, Appellants had specifically flagged the issue of applicability of the amendment to Section 39 on the ground that Late Shri Vineet Huria died on 11.07.2018 and the policy had matured after the Amendment to Section 39, came into force. It was thus incumbent upon the Trial Court to have considered and examined the issue, once the same was raised and highlighted by the Appellants and taken a decision accordingly, with respect to the benefits accruing under the insurance policies, in question.*

5.10 Hon'ble Madras High Court in the case of ***K.R. Sakthi Murugeswari*** in paragraphs-5, 6 & 7 has held as follows:

5. *There is no serious dispute on the facts of the case and therefore, the facts does not require any reiteration. The law as it stood before the coming into force of the Amendment Act, 2015, was that the nominee merely receives the assured sum from the Insurance Company in his or her capacity as a collector nominee and insofar as the claim over the sum assured, the parties are relegated back to the personal law which governs them. Therefore, in many cases, the collector nominee merely retains the amount in trust, subject to working out the final claim between the parties before the competent Court. An amendment was brought to the Insurance Act, 1938 in the year 2015. By virtue of this amendment, the line that was drawn between a beneficiary nominee and collector nominee stood almost obliterated. The nominee about whom Section 39 of the Insurance Act, 1938, talks about is considered to be a beneficiary nominee and the concept of collector nominee has been done away with. To properly understand the position of law, it will be appropriate to extract Sub Sections 7 to 10 of Section 39 of the Insurance Act, 1938, hereunder:*

"39. Nomination by Policy holder:—

(1)…

(7). Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to him or them under sub-section (6) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(8) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (7) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents

the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.

(9) Nothing in sub-sections (7) and (8) shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of life insurance.

(10) The provisions of sub-sections (7) and

(8) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Act, 2015.

….."

6. *The above change that was brought in through the 2015 Amendment Act was dealt with by the Delhi High Court in the case of Shweta Singh Huria v. Santhosh Huria, AIR 2021 Del 121. The relevant portions in the Judgment are extracted hereunder:*

"18. It was submitted that amendment to Section 39 was made pursuant to 190th Report of the Law Commission, wherein the judgment in Sarbati Devi v. Usha Devi, (1984) 1 SCC 424 was also considered. In the said decision, the Supreme Court held that nomination would not confer any beneficial interest on the nominee and it is a mere authorization to receive the insurance amount, which can be claimed by the legal heirs of the assured in accordance with law of succession, governing the parties. The judgment has been followed successively by various High Courts in a long line of cases, holding that mere nomination effected under Section 39 shall not deprive the legal heirs to the amount under the Insurance Policies. However, as per Ms. Gambhir, the said judgments would be of no avail to Respondent No. 1 as the said decisions are based on the unamended Section 39, while the present case relates to policies which have matured in 2018, post the 2015 Amendment.

19. Learned counsel for the Appellants relied upon the judgment of Rajasthan High Court in Ramgopal v. General Public, S.B. Civil Misc. Appeal No. 27/2018 decided on 05.04.2019, wherein according to her, judgment in Sarbati Devi (supra) was distinguished in view of the 2015 Amendment and Court held that wherever the provisions of amended section 39 will be applicable, beneficial nominee shall be

entitled to the benefits under the insurance policies, to the exclusion of any other legal heir, who is not a nominee.

20. Per contra, Mr. Rakesh Wadhwa learned counsel for Respondent No. 1 opposed the appeal and submitted that the partial decree has been rightly passed by the Trial Court on an application under Order XII Rule 6 CPC. Drawing the attention of the Court to the said provision, learned counsel argued that based on admission of facts in the pleadings or otherwise, orally or in writing, it is open to the Court, at any stage of the suit, without waiting for determination of any other question between the parties, to make such order or give a judgment, having regard to the admissions. Appellant No. 1 admitted in the written statement that she had received a sum of Rs. 2,48,53,000/- as well as money under two policies as a nominee of the deceased. Being the mother, Respondent No. 1 is a Class-I legal heir and entitled to 1/4th share and there is no infirmity in the order of the Trial Court, as the admissions were clear and unambiguous.

21. It is argued that reliance of the Appellants on the Insurance Act, 1938 as amended by Insurance Laws (Amendment) Act, 2015 is misplaced in view of the settled law that a nominee does not have an absolute right over the estate of the deceased, as nomination is not a 'Will'. Several Courts have held from time to time that a nominee in an insurance policy only acts as a receiver on behalf of the legal heirs of the deceased policy holder and once the money is received by the nominee, disbursement under the policy, has to follow the testamentary disposition under the law of succession, which cannot be overridden by the Insurance Act, 1938, even after the said amendment. No judgment has been cited by the counsel for the Appellants which denies a legal heir the right to claim the amounts payable under the Insurance Policy and on the contrary it has been held that a policy holder continues to hold interest in the policy during his lifetime and the nominee acquires no interest during the lifetime of a policy holder. On the death of a policy holder, the amount payable under the policy becomes a part of his estate and will be disbursed in accordance with the law of succession, either testamentary or intestate. Nomination is only for the benefit of the insurer so that he gets a valid discharge of its liability under the policy and is not embroiled in the litigations inter-se the legal heirs of the insured. Reliance was placed by Mr. Wadhwa on the following judgments to support his contentions.

i. Smt. Sarbati Devi v. Smt. Usha Devi (1984) 1 SCC ii. Shipra Sengupta v. Mridul Sen Gupta, (2009) 10 SCC 680.

ii. Shipra Sengupta v. Mridul Sen Gupta, (2009) 10 SCC 680 : (AIR Online 2009 SC 408).

iii. Shakti Yezdani v. Jayanand Jayant Salgaonkar Appeal No. 313 of 2015 decided by Bombay High Court on 01.12.2016.

iv. Smt. Rampali v. The State Govt. of NCT of Delhi FOA No. 184/2017 decided by Hon'ble High Court of Delhi on 24.04.2017.

v. Khushboo Gupta v. The Life Insurance Corporation of India CWJC No. 12012 of 2018 : (AIR Online 2019 Pat 1526) decided on 25.09.2019.

vi. Oswal Greentech Ltd. v. Mr. Pankaj Oswal CA No. 410 of 2018 decided by National Company Law Appellate Tribunal, Delhi on 14.11.2019.

vii. S. Shafeek v. State of Kerala, 2020 SCC OnLine Ker 636.

viii. Smt. Ramayee v. the Principal Comptroller of Defence. W.P. (MD). No. 18544 of 2016 decided on 17.02.2020."

27. The proposition of law laid down by the Supreme Court in Sarbati Devi (supra) and relied upon by counsel for the Respondent cannot be disputed and is a binding dictum. The Supreme Court held that nomination would not confer any beneficial interest on the nominee under an insurance policy and a nominee is only an authorized hand to receive the insurance amount, which is subject to be disbursement amongst the legal heirs under the law of succession, governing the parties. In fact, the said judgment has been followed subsequently in a long line of judgments not only by this Court but different High Courts from time to time. Relevant paras of Sarbati Devi (supra) are as under:—

"5. We shall now proceed to analyse the provisions of Section 39 of the Act. The said section provides that a holder of a policy of life insurance on his own life may when effecting the policy or at any time before the policy matures for payment nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death. If the nominee is a minor, the policy-holder may appoint any person to receive the money in the event of his death during the minority of the nominee. That means that if the policy-holder is alive when the policy matures for payment he alone

will receive payment of the money due under the policy and not the nominee. Any such nomination may at any time before the policy matures for payment be cancelled or changed, but before such cancellation or change is notified to the insurer if he makes the payment bona fide to the nominee already registered with him, the Patna High Court CWJC No. 12012 of 2018 dated 25-09-2019 insurer gets a valid discharge. Such power of cancellation of or effecting a change in the nomination implies that the nominee has no right to the amount during the lifetime of the assured. If the policy is transferred or assigned under Section 38 of the Act, the nomination automatically lapses. If the nominee or where there are nominees more than one all the nominees die before the policy matures for payment the money due under the policy is payable to the heirs or legal representatives or the holder of a succession certificate. It is not necessary to refer to sub-section (7) of Section 39 of the Act here. But the summary of the relevant provisions of Section 39 given above establishes clearly that the policy-holder continues to hold interest in the policy during his lifetime and the nominee acquires no sort of interest in the policy during the lifetime of the policy-holder. If that is so, on the death of the policy-holder the amount payable under the policy becomes part of his estate which is governed by the law of succession applicable to him. Such succession may be testamentary or intestate. There is no warrant for the position that Section 39 of the Act operates as a third kind of succession which is styled as a 'statutory testament' in para 16 of the decision of the Delhi High Court in Uma Sehgal case, [AIR 1982 Del 36 : ILR (1981) 2 Del 315]. If Section 39 of the Act is contrasted with Section 38 of the Act which provides for transfer or assignment of the rights under a policy, the tenuous character of the right of a nominee would become more pronounced. It is difficult to hold that Section 39 of the Act was intended to act as a third mode of succession provided by the statute. The provision in sub-section (6) of Section 39 which says that the amount shall be payable to the nominee or nominees does not mean that the amount shall belong to the nominee or nominees. We have to bear in mind here the special care which law and judicial precedents take in the matter of execution and proof of wills which have the effect of diverting the estate from the ordinary course of intestate succession and that the rigour of the rules Patna High Court CWJC No. 12012 of 2018 : (AIR Online 2019 Pat 1526) dated 25-09-

2019 governing the testamentary succession is not relaxed even where wills are registered.

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8. We have carefully gone through the judgment of the Delhi High Court in Uma Sehgal case, [AIR 1982 Del 36 : ILR (1981) 2 Del 315]. In this case the High Court of Delhi clearly came to the conclusion that the nominee had no right in the lifetime of the assured to the amount payable under the policy and that his rights would spring up only on the death of the assured. The Delhi High Court having reached that conclusion did not proceed to examine the possibility of an existence of a conflict between the law of succession and the right of the nominee under Section 39 of the Act arising on the death of the assured and in that event which would prevail. We are of the view that the language of Section 39 of the Act is not capable of altering the course of succession under law. The second error committed by the Delhi High Court in this case is the reliance placed by it on the effect of the amendment of Section 60(1)(kb) of the Civil Procedure Code, 1908 providing that all moneys payable under a policy of insurance on the life of the judgment debtor shall be exempt from attachment by his creditors. The High Court equated a nominee to the heirs and legatees of the assured and proceeded to hold that the nominee succeeded to the estate with all 'plus and minus points'. We find it difficult to treat a nominee as being equivalent to an heir or legatee having regard to the clear provisions of Section 39 of the Act. The exemption of the moneys payable under a life insurance policy under the amended Section 60 of the Code of Civil Procedure instead of 'devaluing' the earlier decisions which upheld the right of a creditor of the estate of the assured to attach Patna High Court CWJC No. 12012 of 2018 dated 25-09-2019 the amount payable under the life insurance policy recognises such a right in such creditor which he could have exercised but for the amendment. It is because it was attached the Code of Civil Procedure exempted it from attachment in furtherance of the policy of Parliament in making the amendment. The Delhi High Court has committed another error in appreciating the two decisions of the Madras High Court in Karuppa Gounder v. Palaniamma, [AIR 1963 Mad 245 at para 13 : (1963) 1 Mad LJ 86 : ILR 1963 Mad 434] and in B.M. Mundkur v. Life Insurance Corporation of India, [AIR 1977 Mad 72 : 47 Comp Cas 19 : (1977) 1 Mad LJ 59 : ILR (1975) 3 Mad 336]. The relevant part of

the decision of the Delhi High Court in Uma Sehgal case, [AIR 1982 Del 36 : ILR (1981) 2 Del 315] reads thus : (AIR p. 40, paras 10, 11)

"10. In Karuppa Gounder v. Palaniamma, [AIR 1963 Mad 245 at para 13 : (1963) 1 Mad LJ 86 : ILR 1963 Mad 434], K had nominated his wife in the insurance policy. K died. It was held that in virtue of the nomination, the mother of K was not entitled to any portion of the insurance amount.

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12. Moreover there is one other strong circumstance in this case which dissuades us from taking a view contrary to the decisions of all other High Courts and accepting the view expressed by the Delhi High Court in the two recent judgments delivered in the year 1978 and in the year 1982. The Act has been in force from the year 1938 and all along almost all the High Courts in India have taken the view that a mere nomination effected under Section 39 does not deprive the heirs of their rights in the amount payable under a life insurance policy. Yet Parliament has not chosen to make any amendment to the Act. In such a situation unless there are strong and compelling reasons to hold that all these decisions are wholly erroneous, the Court should be slow to take a different view. The reasons given by the Delhi High Court are unconvincing. We, therefore, hold that the judgments of the Delhi High Court in Fauza Singh case, [AIR 1978 Del 276] and in Uma Sehgal case, [AIR 1982 Del 36 : ILR (1981) 2 Del 315] do not lay down the law correctly. They are, therefore, overruled. We approve the views expressed by the other High Courts on the meaning of Section 39 of the Act and hold that a mere nomination made under Section 39 of the Act does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorised to receive the amount, on the payment of which the Patna High Court CWJC No. 12012 of 2018 dated 25-09-2019 insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession governing them."

28. However, the contention of the Appellant is that Section 39 of the Insurance Act, 1938 was amended by The Insurance Laws (Amendment) Act, 2015 which has come into force w.e.f 26.12.2014

and by virtue of amended subsection (7) of Section 39, nominee has a beneficial interest in the amount payable under the Life Insurance Policy, on the death of the assured and no longer remains a mere receiver nominee, whose rights under the unamended Section were subject to rights and claims of the legal heirs under the law of succession.

29. In order to appreciate the legal nodus that arises, it is imperative to compare and contrast relevant provisions of the unamended and amended Sections 39, respectively, which are extracted hereunder for ready reference:—

Unamended Section 39:—

"39. Nomination by policy-holder.—(1) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(6) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(7) The provisions of this section shall not apply to any policy of life insurance to which Section 6 of the Married Women's Property Act, 1874 applies or has at any time applied:

Amended Section 39:

39. (1) The holder of a policy of life insurance on his own life may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(6) Where the nominee or if there are more nominees than one, a nominee or nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(7) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to him or them under subsection (6) unless it

is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(10) The provisions of sub-sections (7) and (8) shall apply to all policies of life insurance maturing for payment after the commencement of the Insurance Laws (Amendment) Act, 2015.

(11) Where a policyholder dies after the maturity of the policy but the proceeds and benefit of his policy has not been made to him because of his death, in such a case, his nominee shall be entitled to the proceeds and benefit of his policy.

30. Section 39 was amended by the amending Act No. 5 of 2015 and was pursuant to the recommendations of 190th Report of the Law Commission of India, relevant passages from which are as under:—

The Law Commission's views:—

7.1.12 There appears to be a consensus of sorts on the need for drawing a clear distinction between a beneficial nominee and a collector nominee. It is not possible to agree to the suggestion made by some of the insurers that in all cases the payment to the nominee would tantamount to a full discharge of the insurer's liability under the policy and that unless the contrary is expressed, the nominee would be the beneficial nominee. Although it is true that this is the law in USA, Canada and South Africa, the social realities of our country where the death of a sole breadwinner of the family immediately throws the remaining family into hardship cannot be lost sight of. To deny, in such instance, the right of the legal representatives to the policy amount on the basis that the nominee is a different person seems harsh. On the other hand, what appears reasonable is to give an option to the policyholder to clearly express whether the nominee will collect the money on behalf of the legal representatives (in other words such nominee will be the collector nominee) or whether the nominee will be the absolute owner of the monies in which case such nominee will be the beneficial nominee. Public interest and the peculiar social realities in India cannot permit the adoption of the procedures followed in Canada, USA or South Africa. The Commission is not agreeable to the suggestion that a provision similar to S. 45 ZA as in the Banking Regulation Act, 1949 should be adopted.

7.1.13 The suggestion that a proviso be added to make the nomination effectual for the nominee to receive the policy money in case the policyholder dies after the maturity of the policy but before it can be encashed, has also been welcomed by the responses, and is hereby recommended.

Final recommendations of the Law Commission in regard to Section 39:

7.1.14 After considering all the responses and reexamining the entire issue, the final recommendations of the Law Commission regard to s. 39 may be summarised as under:

(a) A clear distinction be made in the provision itself between a beneficial nominee and a collector nominee.

(b) It is not possible to agree to the suggestion made by some of the insurers that in all cases the payment to the nominee would tantamount to a full discharge of the insurer's liability under the policy and that unless the contrary is expressed, the nominee would be the beneficial nominee.

(c) An option be given to the policyholder to clearly express whether the nominee will collect the money on behalf of the legal representatives (in other words such nominee will be the collector nominee) or whether the nominee will be the absolute owner of the monies in which case such nominee will be the beneficial nominee.

(d) A proviso be added to make the nomination effectual for the nominee to receive the policy money in case the policyholder dies after the maturity of the policy but before it can be encashed.

Suggested Amendment of Section 39:—

"7.1.15 To give effect to the above recommendations, the Law Commission is of the view that s. 39 be recast as follows:

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(7) Subject to the other provisions of this section, where the holder of a policy of insurance on his own life nominates his parents, or his spouse, or his children, or his spouse and children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer to him or them under sub-section (6) unless it is proved that the holder of the policy, having regard to the nature of his title to the policy, could not have conferred any such beneficial title on the nominee.

(8) Subject as aforesaid, where the nominee, or if there are more nominees than one, a nominee or nominees, to whom sub-section (7) applies, die after the person whose life is insured but before the amount secured by the policy is paid, the amount secured by the policy, or so much of the amount secured by the policy as represents the share of the nominee or nominees so dying (as the case may be), shall be payable to the heirs or legal representatives of the nominee or nominees or the holder of a succession certificate, as the case may be, and they shall be beneficially entitled to such amount.

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(10) The provisions of sub-sections (7), (8) and (9) shall apply to all policies of life insurance maturing for payment after the commencement of this Act.

(11) Every policyholder shall have an option to indicate in clear terms whether the person or persons being nominated by the policyholder is/are a beneficiary nominee(s) or a collector nominee(s).

Provided where the policyholder fails to indicate whether the person being nominated is a beneficiary nominee or a collector nominee it will be deemed that the person nominated is a beneficiary nominee.

Explanation : For the purposes of this sub-section the expression "beneficiary nominee" means a nominee who is entitled to receive the entire proceeds payable under a policy of insurance subject to other provisions of this Act and the expression "collector nominee" means a nominee other than a beneficiary nominee."

31. As is evident from a reading of the recommendations of the Law Commission, a distinction was carved out between 'beneficiary nominee' and 'collector nominee' and Section 39 of the Insurance Act, 1938 was amended accordingly, adding sub-Section (7). Beneficiary nominee means a nominee who was entitled to receive the entire proceeds under an insurance policy and a collector nominee means a nominee other than a beneficiary nominee. Keeping this distinction in mind, sub-section (7) of Section 39 was carefully and cautiously drafted and the words used by the legislature are 'beneficial interest'.

***7.** A careful reading of the above Judgment brings to light the fact that the dictum of the Hon'ble Apex Court in Sarbati Devi case to the effect that a mere nomination would not confer any beneficial interest on the nominee under an insurance policy, has undergone a change by virtue of the amendment that was brought in by the Parliament to*

Section 39 of the Insurance Act, 1938. Before this amendment was brought in, the Law Commission had also submitted its views and the Law Commission wanted to specifically carve out the distinction between the beneficiary nominee and the collector nominee. However, when the legislature amended Section 39 of the Insurance Act, 1938 and brought in Sub Sections 7 and 8, the very concept of collector nominee has been done away with. This was taken into consideration by the Delhi High Court and considering the facts and circumstances of that case, the nominee, who was appointed under the Policy was held to be a beneficiary nominee and was hence, entitled to appropriate the entire sum assured.

6. To the submission made by the learned Sr. Counsel appearing for Opp. Party No.3(b), learned counsel appearing for the Petitioner made further submission, contending inter alia that in view of the provisions contained under Section 8 of the Hindu Succession Act, Petitioner being the legal married wife of the deceased-employee and being a Class-I heir of the said deceased under Sec 8(a) of the Act, Petitioner is only eligible and entitled to get all the benefits as due to the deceased employee.

6.1. In support of his submission, reliance was placed to following decision of the Hon'ble Apex Court.

1. Shakti Yezdani and others Vs. Jayanand Jayant Salgaonkar and Others Civil Appeal No.7107 of 2017, decided on 14.12.2023.

2. Sarabati Devi and Others Vs. Usha Devi, (1984) 1 SCC 424.

***3. Ram Chander Talwar v. Devender Kumar Talwar*, (2010) 10 SCC 671**

6.2. Hon'ble Apex Court in the case of ***Shakti Yezdani*** in paragraphs 11, 12,14,38,40,42,44,45 & 46 has held as follows:

> **11.** *To appreciate the precise ratio in Kokate (supra), the following two paragraphs of the Kokate judgment were extracted by the Division Bench:*
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> **xxx xxx xxx**
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> ***25.*** *A reading of Section 109A of the Companies Act and bye-law 9.11 of the Depositories Act makes it abundantly clear that the intent of the nomination is to vest the property in the shares which includes the ownership rights thereunder in the nominee upon nomination validly made as per the procedure prescribed, as has been done in this case. These Sections are completely different from Section 39 of the Insurance Act set out (supra) which require a nomination merely for the payment of the amount under the Life Insurance Policy without confirming any ownership rights in the nominee or Under Section 30 of the Maharashtra Cooperative Societies Act which allows the Society to transfer the shares of the member which would be valid against any demand made by any other person upon the Society. Hence these provisions are made merely to give a valid discharge to the Insurance Company or the Co-operative Society without vesting the ownership rights in the Insurance Policy or the membership rights in the Society upon such nominee. The express legislature Intent Under Section 109A of the Companies Act and Section 9.11 of the Depositories Act is clear.*
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> **12. xxx xxx xxx**
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> *Adverting to and Interpreting the pari materia provisions relating to nominations under various statutes, the Division Bench felt that the consistent view in the various judgments of the Supreme Court and the Bombay High Court must be followed and those do not warrant any departure. It was expressly opined that the so-called 'vesting' Under Section 109A of the Companies Act, 1956 does not create a third mode of succession and the provisions are not intended to create another mode of succession. In fact, the Companies Act, 1956 has nothing to do with the law of succession. Accordingly, the Division Bench declared that the nominee of a holder of a share or securities is not entitled to the beneficial ownership of the shares or securities which are the subject matter of nomination to the exclusion of all other persons who are entitled to inherit the estates of the holders as per the law of succession. Answering the third question, the Division*

Bench held that a bequest made in a Will executed in accordance with the Indian Succession Act, 1925 In respect of shares or securities of the deceased, supersedes the nomination made under the provision of Section 109A of Companies Act and Bye-law 9.11 framed under the Depositories Act, 1996. The bench accordingly ruled that an incorrect view was taken in Kokate (supra).

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14. *Looking at the provisions relating to nominations under different statutory enactments and the way the Courts have interpreted those to the effect that the nominee does not get absolute title to the property which is the subject matter of nomination, the Division Bench interpreting the provisions under S.109A & S. 109B Companies Act, 1956 declared that they do not override the law in relation to testamentary or intestate succession. The judgment in Kokate (supra) was declared to be incorrect as it failed to consider the law laid down in Khanchandani(supra) and Talwar (supra) as these cases preceded Kokate (supra).*

NO THIRD LINE OF SUCCESSION CONTEMPLATED UNDER COMPANIES ACT

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38. *As per Bye-law 9.11.7 of the Depositories Act, 1996, the non obstante Clause confers overriding effect to the nomination over any other disposition/nomination for the purposes of dealing with the securities lying to the credit of deceased nominating person(s) in any manner. Therefore, the purpose of invoking such a non obstante Clause is clearly delineated and limited to the extent of enabling the depository to deal with the securities, in the immediate aftermath of the securities holder's death, The upshot of the above discussion is that the non-obstante Clause in both Section 109A(3) of the Companies Act, 1956 & Bye-law 9.11.7 of the Depositories Act, 1996 cannot be held to exclude the legal heirs from their rightful claim over the securities, against the nominee*

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40. *In Sarbati Devi (supra) this Court held that nomination Under Section 39 of the Life Insurance Act, 1938 does not contemplate a third line of succession styled as a 'statutory testament and any amount paid to a nominee on the policy holder's death forms a part of the estate of the deceased policy holder and devolves upon his/her heirs, as per testamentary or intestate succession. Further, in Ram Chander Talwar (supra), while discussing the rights of a nominee of a deceased depositor (Section 45-ZA(2) Banking Regulation Act, 1949), this Court concluded that the right to receive the money lying in the depositor's account was to be conferred on the nominee but the nominee would not become the owner of such deposits. The said deposit is a part of the deceased depositor's*

estate and is subject to the laws of succession that governs the depositor.

42. *Therefore, the argument by the Appellants of nomination as a 'statutory testament not be countenanced simply because the Companies Act, 1956 does not deal with ccession nor does it override the laws of succession. It is beyond the scope of the company's affairs to facilitate succession planning of the shareholder. In case of a will. is upon the administrator or executor under the Indian Succession Act, 1925, or in case of intestate succession, the laws of succession to determine the line of succession.*

44. *An individual dealing with estate planning or succession laws understands. nomination to take effect in a particular manner and expects the implication to be no different for devolution of securities per se. Therefore, an interpretation otherwise would inevitably lead to confusion and possibly complexities, in the succession process, something that ought to be eschewed. At this stage, it would be prudent to note the significance of a settled principle of law. In Shanker Raju v. Union of India MANU/SC/0009/2011: (2011) 2 SCC 132, the Court held:*

> *10. It is a settled principle of law that a judgment, which has held the field for a long time, should not be unsettled. The doctrine of stare decisis is expressed in the maxim stare decisis et non quieta movere, which means "to stand by decisions and not to disturb what is settled". Lord Coke aptly described this in his classic English version as "those things which have been so often adjudged ought to rest in peace". The underlying logic of this doctrine is to maintain consistency and avoid uncertainty. The guiding philosophy is that a view which has held the field for a long time should not be disturbed only because another view is possible.*

45. *The vesting of securities in favour of the nominee contemplated Under Section 109A of the Companies Act 1956 (pari materia Section 72 of Companies Act, 2013) & Bye-Law 9.11.1 of Depositories Act, 1996 is for a limited purpose ie., to ensure that there exists no confusion pertaining to legal formalities that are to be undertaken upon the death of the holder and by extension, to protect the subject matter of nomination from any protracted litigation until the legal representatives of the deceased holder are able to take appropriate steps. The object of introduction of nomination facility vide the Companies (Amendment) Act, 1999 was only to provide an impetus to the investment climate and ease the cumbersome process of obtaining various letters of succession, from different authorities upon the shareholder's death.*

46 *Additionally, there is a complex layer of commercial considerations that are to be taken into account while dealing with the issue of nomination pertaining to companies or until legal heirs are able to sufficiently establish their right of succession to the company. Therefore, offering a discharge to the entity once the nominee is in picture is quit distinct from granting ownership of securities to nominees instead of the legal heirs. Nomination process therefore does*

not override the succession laws. Simply said, there is no third mode of succession that the scheme of the Companies Act, 1956(pari materia provisions in Companies Act, 2013) and Depositories Act, 1996 aims or intends to provide.

6.3. Hon'ble Apex Court in the case of ***Sarabti Devi*** in paragraphs 4,5,8,10,11 & 12 has held as follows:

> **4.** At the outset it should be mentioned that except the decision of the Allahabad High Court in *Kesari Devi* v. *Dharma Devi* [AIR 1962 All 355 : 1962 All LJ 265] on which reliance was placed by the High Court in dismissing the appeal before it and the two decisions of the Delhi High Court in *S. Fauza Singh* v. *Kuldip Singh* [AIR 1978 Del 276] and *Uma Sehgal* v. *Dwarka Dass Sehgal* [AIR 1982 Del 36 : ILR (1981) 2 Del 315] in all other decisions cited before us the view taken is that the nominee under Section 39 of the Act is nothing more than an agent to receive the money due under a life insurance policy in the circumstances similar to those in the present case and that the money remains the property of the assured during his lifetime and on his death forms part of his estate subject to the law of succession applicable to him. The cases which have taken the above view are *Ramballav Dhandhania* v. *Gangadhar Nathmall* [AIR 1956 Cal 275] ; *Life Insurance Corporation of India* v. *United Bank of India Ltd* [AIR 1970 Cal 513] ; *D. Mohanavelu Mudaliar* v. *Indian Insurance and Banking Corporation Ltd., Salem* [AIR 1957 Mad 115 : (1956) 1 LLJ 498 : (1955-56) 9 FJR 160] ; *Sarojini Amma* v. *Neelakanta Pillai* [AIR 1961 Ker 126 : (1961) 31 Com Cas 86 : 1960 KLT 1319] ; *Atmaram Mohanlal Panchal* v. *Gunvantiben* [AIR 1977 Guj 134 : 18 GLR 668] ; *Malli Dei* v. *Kanchan Prava Dei* [AIR 1973 Ori 83] and *Lakshmi Amma* v. *Saguna Bhagath* [ILR 1973 Kant 827] . Since there is a conflict of judicial opinion on the question involved in this case it is necessary to examine the above cases at some length. The law in force in England on the above question is summarised in *Halsbury's Laws of England* (4th Edn.), Vol. 25, para 579 thus:
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> "579. *Position of third party.*—The policy money payable on the death of the assured may be expressed to be payable to a third party and the third party is then prima facie merely the agent for the time being of the legal owner and has his authority to receive the policy money and to give a good discharge; but he generally has no right to sue the insurers in his own name. The question has been raised whether the third party's authority to receive the policy money is terminated by the death of the assured; it seems, however, that unless and until they are otherwise directed by the assured's personal representatives the insurers may pay the money to the third party and get a good discharge from him."

5. We shall now proceed to analyse the provisions of Section 39 of the Act. The said section provides that a holder of a policy of life insurance on his own life may when effecting the policy or at any time before the policy matures for payment nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death. If the nominee is a minor, the policy-holder may appoint any person to receive the money in the event of his death during the minority of the nominee. That means that if the policy-holder is alive when the policy matures for payment he alone will receive payment of the money due under the policy and not the nominee. Any such nomination may at any time before the policy matures for payment be cancelled or changed, but before such cancellation or change is notified to the insurer if he makes the payment bona fide to the nominee already registered with him, the insurer gets a valid discharge. Such power of cancellation of or effecting a change in the nomination implies that the nominee has no right to the amount during the lifetime of the assured. If the policy is transferred or assigned under Section 38 of the Act, the nomination automatically lapses. If the nominee or where there are nominees more than one all the nominees die before the policy matures for payment the money due under the policy is payable to the heirs or legal representatives or the holder of a succession certificate. It is not necessary to refer to sub-section (7) of Section 39 of the Act here. But the summary of the relevant provisions of Section 39 given above establishes clearly that the policy-holder continues to hold interest in the policy during his lifetime and the nominee acquires no sort of interest in the policy during the lifetime of the policy-holder. If that is so, on the death of the policy-holder the amount payable under the policy becomes part of his estate which is governed by the law of succession applicable to him. Such succession may be testamentary or intestate. There is no warrant for the position that Section 39 of the Act operates as a third kind of succession which is styled as a 'statutory testament' in para 16 of the decision of the Delhi High Court in *Uma Sehgal case* [AIR 1982 Del 36 : ILR (1981) 2 Del 315] . If Section 39 of the Act is contrasted with Section 38 of the Act which provides for transfer or assignment of the rights under a policy, the tenuous character of the right of a nominee would become more pronounced. It is difficult to hold that Section 39 of the Act was intended to act as a third mode of succession provided by the statute. The provision in sub-section (6) of Section 39 which says that the amount shall be payable to the nominee or nominees does not mean that the amount shall belong to the nominee or nominees. We have to bear in mind here the special care which law and judicial precedents take in the matter of execution and proof of wills which have the effect of diverting the estate from the ordinary course of intestate succession and that the rigour of the rules governing the testamentary succession is not relaxed even where wills are registered.

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8. We have carefully gone through the judgment of the Delhi High Court in *Uma Sehgal case* [AIR 1982 Del 36 : ILR (1981) 2 Del 315] . In this case the High Court of Delhi clearly came to the conclusion that the nominee had no right in the lifetime of the assured to the amount payable under the policy and that his rights would spring up only on the death of the assured. The Delhi High Court having reached that conclusion did not proceed to examine the possibility of an existence of a conflict between the law of succession and the right of the nominee under Section 39 of the Act arising on the death of the assured and in that event which would prevail. We are of the view that the language of Section 39 of the Act is not capable of altering the course of succession under law. The second error committed by the Delhi High Court in this case is the reliance placed by it on the effect of the amendment of Section 60(1)(*kb*) of the Code of Civil Procedure, 1908 providing that all moneys payable under a policy of insurance on the life of the judgment debtor shall be exempt from attachment by his creditors. The High Court equated a nominee to the heirs and legatees of the assured and proceeded to hold that the nominee succeeded to the estate with all 'plus and minus points'. We find it difficult to treat a nominee as being equivalent to an heir or legatee having regard to the clear provisions of Section 39 of the Act. The exemption of the moneys payable under a life insurance policy under the amended Section 60 of the Code of Civil Procedure instead of 'devaluing' the earlier decisions which upheld the right of a creditor of the estate of the assured to attach the amount payable under the life insurance policy recognises such a right in such creditor which he could have exercised but for the amendment. It is because it was attached the Code of Civil Procedure exempted it from attachment in furtherance of the policy of Parliament in making the amendment. The Delhi High Court has committed another error in appreciating the two decisions of the Madras High Court in *Karuppa Gounder* v. *Palaniamma* [AIR 1963 Mad 245 at para 13 : (1963) 1 MLJ 86 : ILR (1963) Mad 434] and in *B.M. Mundkur* v. *Life Insurance Corporation of India* [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] . The relevant part of the decision of the Delhi High Court in *Uma Sehgal case* [AIR 1982 Del 36 : ILR (1981) 2 Del 315] reads thus: (AIR p. 40, paras 10, 11)

"10. In *Karuppa Gounder* v. *Palaniamma* [AIR 1963 Mad 245 at para 13 : (1963) 1 MLJ 86 : ILR (1963) Mad 434] , *K* had nominated his wife in the insurance policy. *K* died. It was held that in virtue of the nomination, the mother of *K* was not entitled to any portion of the insurance amount.

11. I am in respectful agreement with these views, because they accord with the law and reason. They are supported by Section 44(2) of the Act. It provides that the commission payable to an insurance agent shall after his death, continue to be payable to his heirs, but if the agent had nominated any person the commission shall be paid to the person so nominated. It cannot be contended that the nominee under Section 44 will receive the money not as owner but as an agent

on behalf of someone else, vide *B.M. Mundkur* v. *Life Insurance Corporation* [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] . Thus, the nominee excludes the legal heirs."

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10. It is obvious from the above passage that the above case has no bearing on the meaning of Section 39 of the Act. The fact of nomination was treated in that case as a piece of evidence in support of the finding that the policy was not a joint family asset but the separate property of the coparcener concerned. No right based on the ground that one party was entitled to succeed to the estate of the deceased in preference to the other or along with the other under the provisions of the Hindu Succession Act was asserted in that case. The next error committed by the Delhi High Court is in drawing an analogy between Section 39 and Section 44(2) of the Act thinking that the Madras High Court had done so in *B.M. Mundkur case* [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] . In *B.M. Mundkur case* [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] the High Court of Madras instead of drawing an analogy between Section 39 and Section 44(2) of the Act actually contrasts them as can be seen from the following passage:

". . .There are vital differences between the nomination contemplated under Section 39 of the Act and nomination contemplated under the proviso to Section 44(2) of the Act. In the first place, the sum assured, with which alone Section 39 was concerned, was to be paid in the event of the death of the assured under the terms of the contract entered into between the insurer and the assured and consequently it was the contractual right which remained vested in the insured with reference to which the nomination happened to be made. It should be pointed out that the nomination as well as the liability on the part of the insurer to pay the sum assured become effective simultaneously, namely, at the moment of the death of the assured. So long as he was alive, the money was not payable to him, in the case of a whole life policy, and equally, having regard to the language of Section 39(1) of the Act, the nominee's right to receive the money arose only on the death of the assured. Section 39 itself did not deal with the title to the money assured, which was to be paid by the insurer to the nominee who was bound to give discharge to the insurer. It was in this context that the Court took the view that the title remained with the estate of the deceased and, therefore, with the heirs of the deceased, that the nomination did not in any way affect the title and that it merely clothed the nominee with the right to receive the amount from the insurer. (AIR 1977 Mad 77, para 10-A)

11. On the other hand, the provisions and purport of Section 44 of the Act are different. In the first place, under Section 44(1) it was a statutory right conferred on the agent to receive the commission on the renewal premium, notwithstanding the

termination of the agreement between the agent and the insurer, which provided for the payment of such commission on the renewal premium. The statute also prescribed the qualification which rendered the agent eligible to receive commission on such renewal premium. Section 44(1) provides for the payment of the commission to the agent during his lifetime only and does not contemplate the contingency of his death and the commission being paid to anybody even after his death. It is Section 44(2) which deals with the payment of commission to the heirs of deceased for so long as such commission would have been payable had such insurance agent been alive. Thus it was not the general law of inheritance which conferred title on the heirs of the deceased insurance agent to receive the commission on the renewal premium, but it was only the particular statutory provision, namely, Section 44(2) which conferred the right on the heirs of the deceased agent to receive the commission on the renewal premium. In other words, the right of the heirs to receive the commission on renewal premium does not arise under any law of succession and it is a right directly conferred on the heirs by Section 44(2) of the Act, even though who the heirs of the deceased insurance agent are will have to be ascertained under the law of succession applicable to him. Thus the statute which conferred such a right on the heirs is certainly competent to provide for an exception in certain cases and take away such a right from the heirs; and the proviso which has been introduced by the Government of India Notification 1962 has done exactly this in taking away the right of the heirs conferred under the main part of Section 44(2), in the event of the agent, during his lifetime, making a nomination in favour of a particular person and not cancelling or altering that nomination subsequently. If the statute itself was competent to confer such a right for the first time on the heirs of the deceased agent, it is indisputable that the statute could take away that right under stated circumstances. . . .” (AIR 1977 Mad 77, para 11)

12. Moreover there is one other strong circumstance in this case which dissuades us from taking a view contrary to the decisions of all other High Courts and accepting the view expressed by the Delhi High Court in the two recent judgments delivered in the year 1978 and in the year 1982. The Act has been in force from the year 1938 and all along almost all the High Courts in India have taken the view that a mere nomination effected under Section 39 does not deprive the heirs of their rights in the amount payable under a life insurance policy. Yet Parliament has not chosen to make any amendment to the Act. In such a situation unless there are strong and compelling reasons to hold that all these decisions are wholly erroneous, the Court should be slow to take a different view. The reasons given by the Delhi High Court are unconvincing. We, therefore, hold that the judgments of the Delhi High Court in *Fauza Singh case* [AIR 1978 Del 276] and in *Uma Sehgal case* [AIR 1982 Del 36 : ILR (1981) 2 Del 315] do not lay down the law correctly. They are, therefore,

overruled. We approve the views expressed by the other High Courts on the meaning of Section 39 of the Act and hold that a mere nomination made under Section 39 of the Act does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorised to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession governing them.

6.5. Hon'ble Apex Court in the case of ***Ram Chander Talwar*** in paragraphs-3, 4, 5 & 6 has held as follows:

3. *The submission is quite fallacious and is based on a complete misconception of the provision of the Act.*

4. *Sub-section (2) of Section 45-ZA, reads as follows:*

*"45-ZA. ****

(2) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner."

(emphasis added)

5. *Section 45-ZA(2) merely puts the nominee in the shoes of the depositor after his death and clothes him with the exclusive right to receive the money lying in the account. It gives him all the rights of the depositor so far as the depositor's account is concerned. But it by no stretch of imagination makes the nominee the owner of the money lying in the account. It needs to be remembered that the Banking Regulation Act is enacted to consolidate and amend the law relating to banking. It is in no way concerned with the question of succession. All the monies receivable by the nominee by virtue of Section 45-ZA(2) would, therefore, form part of the estate of the deceased depositor*

and devolve according to the rule of succession to which the depositor may be governed.

6. *We find that the High Court has rightly rejected the appellant's claim relying upon the decision of this Court in Vishin N. Khanchandani v. Vidya Lachmandas Khanchandani [(2000) 6 SCC 724] . The provision under Section 6(1) of the Government Savings Certificates Act, 1959 is materially and substantially the same as the provision of Section 45-ZA(2) of the Banking Regulation Act, 1949, and the decision in Vishin N. Khanchandani [(2000) 6 SCC 724] applies with full force to the facts of this case.*

6.6. Further, reliance was also placed to a decision of the High Court of Karnatak, Dharwad Bench in the case of ***Smt. Annapurna Vs. Kavita and others***, Regular First Appeal No.100004 of 2025 decided on 22.01.2025. Hon'ble Karnataka High Court in paragraps- 7 to 9 of the judgment has held as follows:

7. *The appellant was a nominee, when deceased purchased insurance policy from respondent No.3. Just because the deceased has made the appellant as nominee, that does not defeat law of succession, when other legal heirs are having right to claim estate of deceased. The purpose of making nomination is to discharge the initial burden of the banker/insurance institution to pay the amount to the nominee without keeping themselves. But, just because nominee is made that does not create any disentitlement by other legal heirs as per their right vested under the law of succession.*

8. In this regard, Hon'ble Supreme Court in the case of Smt. Sarabati Devi and Another V/s Smt. Usha Devi 1984, 1 SCC 424 has laid down principle of law by interpreting Section 13 of the incidence Act at paragraph Nos.5, 8 and 10.

5. We shall now proceed to analyse the provisions of Section 39 of the Act. The said section provides that a holder of a policy of life insurance on his own life may when effecting the policy or at any time before the policy matures for payment nominate the

person or persons to whom the money secured by the policy shall be paid in the event of his death. If the nominee is a minor, the policy-holder may appoint any person to receive the money in the event of his death during the minority of the nominee. That means that if the policy-holder is alive when the policy matures for payment he alone will receive payment of the money due under the policy and not the nominee. Any such nomination may at any time before the policy matures for payment be cancelled or changed, but before such cancellation or change is notified to the insurer if he makes the payment bona fide to the nominee already registered with him, the insurer gets a valid discharge. Such power of cancellation of or effecting a change in the nomination implies that the nominee has no right to the amount during the lifetime of the assured. If the policy is transferred or assigned under Section 38 of the Act, the nomination automatically lapses. If the nominee or where there are nominees more than one all the nominees die before the policy matures for payment the money due under the policy is payable to the heirs or legal representatives or the holder of a succession certificate. It is not necessary to refer to subsection (7) of Section 39 of the Act here. But the summary of the relevant provisions of Section 39 given above establishes clearly that the policy-holder continues to hold interest in the policy during his lifetime and the nominee acquires no sort of interest in the policy during the lifetime of the policy-holder. If that is so, on the death of the policy-holder the amount payable under the policy becomes part of his estate which is governed by the law of succession applicable to him. Such succession may be testamentary or intestate. There is no warrant for the position that Section 39 of the Act operates as a third kind of succession which is styled as a 'statutory testament' in paragraph 16 of the decision of the Delhi High Court in Uma Sehgal case [AIR 1982 Del 36 : ILR (1981) 2 Del 315] . If Section 39 of the Act is contrasted with Section 38 of the Act which provides for transfer or assignment of the rights under a policy, the tenuous character of the right of a nominee would become more pronounced. It is difficult to hold that Section 39 of the Act was intended to act as a third mode of succession provided by the statute. The provision in sub-section (6) of Section 39 which says that the amount shall be payable to the nominee or nominees does not mean that the amount shall belong to the nominee or nominees. We have to bear in mind here the special care which law and judicial precedents take in the matter of execution and proof of wills which

have the effect of diverting the estate from the ordinary course of intestate succession and that the rigour of the rules governing the testamentary succession is not relaxed even where wills are registered.

8. We have carefully gone through the judgment of the Delhi High Court in Uma Sehgal case [AIR 1982 Del 36 : ILR (1981) 2 Del 315] . In this case the High Court of Delhi clearly came to the conclusion that the nominee had no right in the lifetime of the assured to the amount payable under the policy and that his rights would spring up only on the death of the assured. The Delhi High Court having reached that conclusion did not proceed to examine the possibility of an existence of a conflict between the law of succession and the right of the nominee under Section 39 of the Act arising on the death of the assured and in that event which would prevail. We are of the view that the language of Section 39 of the Act is not capable of altering the course of succession under law. The second error committed by the Delhi High Court in this case is the reliance placed by it on the effect of the amendment of Section 60(1)(kb) of the Code of Civil Procedure, 1908 providing that all moneys payable under a policy of insurance on the life of the judgment debtor shall be exempt from attachment by his creditors. The High Court equated a nominee to the heirs and legatees of the assured and proceeded to hold that the nominee succeeded to the estate with all 'plus and minus points'. We find it difficult to treat a nominee as being equivalent to an heir or legatee having regard to the clear provisions of Section 39 of the Act. The exemption of the moneys payable under a life insurance policy under the amended Section 60 of the Code of Civil Procedure instead of 'devaluing' the earlier decisions which upheld the right of a creditor of the estate of the assured to attach the amount payable under the life insurance policy recognises such a right in such creditor which he could have exercised but for the amendment. It is because it was attached the Code of Civil Procedure exempted it from attachment in furtherance of the policy of Parliament in making the amendment. The Delhi High Court has committed another error in appreciating the two decisions of the Madras High Court in Karuppa Gounder v. Palaniammal [AIR 1963 Mad 245 at para 13 : (1963) 1 MLJ 86 : ILR (1963) Mad 434] and in B.M. Mundkur v. Life Insurance Corporation of India [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] . The relevant part of the decision of the Delhi High Court in Uma Sehgal case [AIR 1982 Del

36 : ILR (1981) 2 Del 315] reads thus: (AIR p. 40, paras 10, 11) 10.In Karuppa Gounder v. Palaniamma [AIR 1963 Mad 245 at para 13 : (1963) 1 MLJ 86 : ILR (1963) Mad 434] , K had nominated his wife in the insurance policy. K died. It was held that in virtue of the nomination, the mother of K was not entitled to any portion of the insurance amount. 11. I am in respectful agreement with these views, because they accord with the law and reason. They are supported by Section 44(2) of the Act. It provides that the commission payable to an insurance agent shall after his death, continue to be payable to his heirs, but if the agent had nominated any person the commission shall be paid to the person so nominated. It cannot be contended that the nominee under Section 44 will receive the money not as owner but as an agent on behalf of someone else, vide B.M. Mundkur v. Life Insurance Corporation [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] . Thus, the nominee excludes the legal heirs.

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10. *It is obvious from the above passage that the above case has no bearing on the meaning of Section 39 of the Act. The fact of nomination was treated in that case as a piece of evidence in support of the finding that the policy was not a joint family asset but the separate property of the coparcener concerned. No right based on the ground that one party was entitled to succeed to the estate of the deceased in preference to the other or along with the other under the provisions of the Hindu*

Succession Act was asserted in that case. The next error committed by the Delhi High Court is in drawing an analogy between Section 39 and Section 44(2) of the Act thinking that the Madras High Court had done so in B.M. Mundkur case [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] . In B.M. Mundkur case [AIR 1977 Mad 72 : 47 Com Cas 19 : (1977) 1 MLJ 59 : ILR (1975) 3 Mad 336] the High Court of Madras instead of drawing an analogy between Section 39 and Section 44(2) of the Act actually contrasts them as can be seen from the following passage: ". . .There are vital differences between the nomination contemplated under Section 39 of the Act and nomination contemplated under the proviso to Section 44(2) of the Act. In the first place, the sum assured, with which alone Section 39 was concerned, was to be paid in the event of the death of the assured under the terms of the contract entered into between the insurer and the assured and consequently it was the contractual right which remained vested in the insured with reference to which the nomination happened to be made. It should be pointed out that the nomination as well as the liability on the part of the insurer to pay the sum assured become effective simultaneously, namely, at the moment of the death of the assured. So long as he was alive, the money was not payable to him, in the case of a whole life policy, and equally, having regard to the language of Section 39(1) of the Act, the nominee's right to receive the money arose only on the death of the assured. Section 39 itself did not deal with the title to the money assured, which was to be paid by the insurer to the nominee who was bound to give discharge to the insurer. It was in this context that the Court took the view that the title remained with the estate of the deceased and, therefore, with the heirs of the deceased, that the nomination did not in any way affect the title and that it merely clothed the nominee with the right to receive the amount from the insurer. (AIR 1977 Mad 77, para 10-A) 11. On the other hand, the provisions and purport of Section 44 of the Act are different. In the first place, under Section 44(1) it was a statutory right conferred on the agent to receive the commission on the renewal premium, notwithstanding the termination of the agreement between the agent and the insurer, which provided for the payment of such commission on the renewal premium. The statute also prescribed the qualification which rendered the agent eligible to receive commission on such renewal premium. Section 44(1) provides for the payment of the commission to the agent during his

lifetime only and does not contemplate the contingency of his death and the commission being paid to anybody even after his death. It is Section 44(2) which deals with the payment of commission to the heirs of deceased for so long as such commission would have been payable had such insurance agent been alive. Thus it was not the general law of inheritance which conferred title on the heirs of the deceased insurance agent to receive the commission on the renewal premium, but it was only the particular statutory provision, namely, Section 44(2) which conferred the right on the heirs of the deceased agent to receive the commission on the renewal premium. In other words, the right of the heirs to receive the commission on renewal premium does not arise under any law of succession and it is a right directly conferred on the heirs by Section 44(2) of the Act, even though who the heirs of the deceased insurance agent are will have to be ascertained under the law of succession applicable to him. Thus the statute which conferred such a right on the heirs is certainly competent to provide for an exception in certain cases and take away such a right from the heirs; and the proviso which has been introduced by the Government of India Notification 1962 has done exactly this in taking away the right of the heirs conferred under the main part of Section 44(2), in the event of the agent, during his lifetime, making a nomination in favour of a particular person and not cancelling or altering that nomination subsequently. If the statute itself was competent to confer such a right for the first time on the heirs of the deceased agent, it is indisputable that the statute could take away that right under stated circumstances. . . .” (AIR 1977 Mad 77, para 11)

9. *Therefore, just because of facility of nomination is made that does not defeat the rights of the legal heirs to claim their right in respect of estate of deceased, as the right of the other legal heirs is as per law of succession. Just because nomination is made during lifetime of deceased, that does not amount to divesting of title after death of deceased. After death of deceased, whatever the estate/amount is there, it is devolved to the legal heirs of deceased as per governing law of inheritance. Therefore, there is no merit in the contention taken by the appellant that just because the appellant is made as nominee than, she alone is entitled to receive the entire amount depriving the right of other legal heirs. Therefore, the appeal is liable to be dismissed having no merits to consider the case. Therefore, the appeal is dismissed.*

6.7. Placing reliance on the aforesaid decisions, more particularly, the decision in the case of ***Shakti Yezdani*** so cited supra and the decision in the case of **Smt. Annapurna,** learned counsel appearing for the Petitioner contended that even after amendment of the Insurance Act in the year 2015, more particularly, the provisions contained under Section 39 of the Act, nomination is subject to the claims of the heirs, assured under the Law of Succession. It is contended that in view of the provisions under Section 8 of the Hindu Succession Act, Petitioner being the wife of the deceased-employee and being a Class-I heir, she is eligible and entitled to get the benefit as due to the deceased employee.

7. Having heard learned counsel appearing for the parties and considering the submission made, this Court finds that Petitioner is the legal married wife of the deceased employee, who was serving with the Opp. Party-Bank. Even though the deceased-employee moved an application seeking a Decree of Divorce in C.P. No.634 of 2015, but it is not disputed that prior to disposal of the matter with passing of any decree, the deceased employee

died on 18.09.2023. On such death of the deceased employee on 18.09.2023, the proceeding was dropped vide order dt.11.02.2023 of the learned Family Judge vide order issued under Annexure-3 series.

7.1. As found and which is not disputed, on such death of the deceased-employee and deceased Opp. Party No.3 being the nominee of the said employee, the bank after calculating the terminal benefit of the deceased employee to the tune of Rs.62,90,737.57p. and after adjusting loan amount to the tune of Rs.22,16,158.31p., credited the balance amount of Rs.40,74,577.26p to the account of deceased Opp. Party No.3. Prior to her death on 13.01.2024, out of the amount so credited to the tune of Rs.40,74,577.26, deceased-Opp. Party No.3 had withdrawn an amount of Rs.6,70,000/-. The residue amount as due to the deceased employee to the tune of Rs.9,33,450.20p. has been released in favour of the present Petitioner in terms of the order passed by the bank on 10.01.2025 under Annexure-A coupled with the order passed by this Court on 17.07.2025. After withdrawal of a sum of Rs.6,70,000/- from out of the

credited amount of Rs.40,74,577.26p., the balance amount lies in the account of deceased-Opp. Party No.3 lying with the bank, and the same has not yet been disbursed in anybody's favour.

7.2. This Court after going through the provisions contained under Section 8 of the Hindu Succession Act, vis-à-vis Sections 14, 15 & 16 of the said Act, is of the view that Petitioner being the wife of the deceased employee and she being a Class-I heir, her interest over the property of the deceased in terms of the provision contained under Section 14 of the Act, will come first and she is eligible and entitled to get the benefit, as due to the deceased- employee.

7.3. Hon'ble Apex Court in the case of ***Shakti Yezdani*** as cited supra has also taken similar view. Even though Opp. party No.3 was the nominee of the deceased employee, but in view of the provisions contained under Section 8 of the Hindu Succession Act and the decision in the case of ***Shakti Yezdani***, so followed by the High Court of Karnataka, in the case of **Smt. Annapurna** as cited supra**,** this Court is of the view that Petitioner is only

eligible and entitled to get the benefit as due to the deceased-employee. Deceased Opp. Party No. 3 cannot take the benefit of the wrong committed by the Opp. Party-bank in crediting the benefits as due to the deceased employee to her account prior to her death on 13.1.2024 and consequentially the same will not flow in favour of Opp. Party Nos. 3(a) to 3(c) in terms of the provision contained under Section 14 & 15 of the Act.

7.4. This Court is unable to accept the contention of the learned Sr. Counsel appearing for Opp. Party No.3 (b) with regard to the eligibility of Opp. party No.3 (a) to 3(c) to get the benefit in terms of the provisions contained under Sections 14, 15 & 16 of the Hindu Succession Act r/w Section 39(7), (8) & (10) of the Insurance Act, 1938, so amended in the year 2015.

7.5. In view of the decision in the case of ***Shakti Yezdani*** so cited supra and the decision of the Karnataka High Court in the case of ***Smt. Annapurna*** and the provision contained under ***Section 8 of the Act***, this Court is unable to accept the contention of the learned Sr. Counsel appearing for Opp. Party No.3(b), with regard to the

entitlement of Opp. Party No.3(a) to 3(c) to get the benefit of the amount credited to the account of deceased-Opp. Party No.3 by the Opp. Party-bank, being the nominee of the deceased employee.

7.6. It is also the view of this Court that the decision relied on by the learned Sr. Counsel appearing on behalf of Opp. party No.3 (b) on the face of the decision in the case of ***Shakti Yezdani***, are not good law.

7.7. In view of the aforesaid analysis, this Court while quashing the impugned communication dt.12.12.2023 so issued by the Opp. Party-bank under Annexure-6, directs Opp. Party-bank to release the amount lying in the account of deceased-Opp. Party No.3 by debiting the amount with drawn by the deceased Opp. Party No.3 prior to her death to the tune of Rs.6, 70,000/- from out of the total credited amount of Rs. 40, 74,577.26p. in favour of the Petitioner.

7.8. The amount already withdrawn by the deceased Opp. party No.3, as per the considered view of this Court, may not be claimed by the Petitioner, as the amount in

question, prior to passing of the interim order, had already been withdrawn by deceased Opp. Party No.3.

7.9. This Court directs Opp. Party-Bank to release the amount to the tune of Rs.34, 04,577.26p. along with accrued interest if any in favour of the Petitioner within a period of 4 (four) weeks from the date of receipt of this order.

7.10. The Writ Petition accordingly stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 20th January, 2026 / Sangita