

GAHC010045122023



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**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WP(C)/1292/2023

ANKITA BORKOTOKY
W/O- LATE RAJEEB BORUAH, R/O- NIRUPA NIWAS, BLOCK-A, FLAT NO.
701 JATIA, KAHILIPARA, P.O. KAHILIPARA, P.S. DISPUR, DIST. KAMRUP(M),
ASSAM, PIN- 781019.

VERSUS

THE LIFE INSURANCE CORPORATION OF INDIA (LICI) AND 6 ORS
REPRESENTED BY ITS MANAGING DIRECTOR- YOGAKSHEMA JEEVAN
BIMA MARG, MUMBAI, MAHARASHTRA, PIN- 400021.

2:THE ZONAL MANAGER
EASTERN ZONE

LIFE INSURANCE CORPORATION OF INDIA
4 C.R. AVENUE
HINDUSTAN BUILDINGS WEST BENGAL
KOLKATA
PIN- 700072.

3:THE DIVISIONAL MANAGER

LIFE INSURANCE CORPORATION OF INDIA
JORHAT DIVISION
JEEVAN PROKASH
RAJABARI
JORHAT
ASSAM
PIN- 785014.

4:THE DIVISIONAL MANAGER

LIFE INSURANCE CORPORATION OF INDIA
GUWAHATI DIVISION
JEEVAN DEEP BUILDING S. S. ROAD
FANCY BAZAR
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN- 781001.

5:THE BRANCH MANAGER

GUWAHATI BRANCH-II
SILPUKHURI
GUWAHATI
DIST. KAMRUP(M)
ASSAM
PIN- 781003.

6:THE BRANCH MANAGER

SIBSAGAR BRANCH OFFICE
ALAM BHAWAN
NEAR DOIMUKH CHARIALI
DIST. SIVASAGAR
ASSAM
PIN- 785640.

7:RANA KR. BORUAH
S/O- JATIN CH. BORUAH
R/O- JEBESWAR CHANGKAKOTY PATH
OLD AMOLAPATTY
P.O.
P.S. AND DIST. SIVASAGAR
ASSAM
PIN- 785640.

8:SMTI. ANJU BORUAH

WIFE OF SRI JATIN CH. BORUAH
R/O- JEBESWAR CHANGKAKOTY PATH
OLD AMOLAPATTY
P.O. AND P.S.- SIVASAGAR
DIST- SIVASAGAR
ASSAM
PIN-785640

For the Petitioner(s) : Mr. M. Sarania, Advocate

For the Respondent(s) : Mr. A. L. Mandal, Standing Counsel
: Mr. B. P. Sharma, Advocate

Date of Hearing : **27.11.2024**
Date of Judgment : **27.11.2024**

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

JUDGMENT AND ORDER (ORAL)

Heard Mr. M. Sarania, the learned counsel appearing on behalf of the Petitioner and Mr. A. L. Mandal, the learned Standing counsel appearing on behalf of the Respondent Nos. 1 to 6. I have also heard Mr. B. P. Sharma, the learned counsel appearing on behalf of the Respondent Nos. 7 and 8.

2. The issue involved in the instant proceedings pertains to as to whether the Petitioner herein would be entitled to a share of the three LIC Policies which was held by the husband of the Petitioner wherein the Respondent No.7 and 8 were the nominees.

3. From a perusal of the materials on record, it reveals that the Petitioner married one Rajeeb Boruah (since deceased) on 24.04.2021 as per the Hindu Social rituals. Subsequently, the marriage was also registered and a marriage certificate was issued on 28.04.2022. The husband of the Petitioner Late Rajeeb Boruah, during his lifetime had taken three life insurance policies issued by the Respondent Corporation. The said policies were

bearing Nos. 486006062, 486008012 and 444707681. It is an admitted fact that in respect to the Policy No. 444707681, the Respondent No.8 was the nominee. However, in respect to the other two policies, the Respondent No.7 was the nominee.

4. At this stage, it is relevant to mention that the Respondent No.7 is the brother of Late Rajeeb Boruah and the Respondent No.8 is the mother of Late Rajeeb Boruah. Upon the demise of Late Rajeeb Boruah, the Respondent Corporation took steps for disbursing the amounts to the respective nominees of the policies and in fact, disbursed the amounts to the Respondent No.7 against the policies wherein he was the nominee.

5. The Petitioner herein is the Class 1 legal heir of Late Rajeeb Boruah being the wife approached the Respondent Authorities for making payment of her share which the Respondent Authorities refused. It is under such circumstances, the present writ petition has been filed.

6. From the materials on record, it reveals that this Court vide an order dated 10.03.2023 issued notice and provided that till the returnable date, the Respondent LIC shall not disburse the sum assured against the aforesaid three policies to the Respondent No.7. Pursuant to the said order being passed, the Respondents have duly appeared and filed their respective affidavits. This Court has duly taken note of the said affidavits.

7. This Court has duly heard the learned counsels appearing on behalf of the Petitioner as well as the Respondents. The question which arises for consideration is as to whether the Petitioner who admittedly is the Class 1 legal heir of Late Rajeeb Boruah can claim the said amounts from the

Respondent Corporation or the Petitioner is required to make a claim against the nominees to whom the Respondent Corporation would make payment in pursuance to the mandate of the policies in question. The law in this regard is no longer res-integra as would be seen from the judgment of the Supreme Court in the case of ***Sarbati Devi and Another Vs. Usha Devi reported in (1984) 1 SCC 424*** wherein the issue which was before the Supreme Court was whether a nominee of a Life Insurance Policy under Section 39 of the Insurance Act, 1938 on the assured dying intestate would be entitled to the beneficial interest in the amount received under the policy to the exclusion of the heirs of the assured. The Supreme Court in the said judgment held that mere nomination made under Section 39 of the Insurance Act, 1938 do 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 insurer. It was categorically observed that the nomination only indicates the hand which is authorized to receive the amount and on payment of the amounts, the insurer gets a valid discharge of its liability under the policy. The Supreme Court further observed that amount however, can be claimed by the heirs of the assured in accordance with law of succession governing them. This Court also finds it relevant to take note of another judgment of the Supreme Court in ***Shipra Sengupta Vs. Mridul Sengupta and Others reported in (2009) 10 SCC 680*** wherein the Supreme Court observed in similar terms. Paragraph Nos. 17, 18 and 19 of the said judgment being relevant are quoted herein under:

“**17.** *The controversy involved in the instant case is no longer res integra. The nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession. In terms of the factual*

foundation laid in the present case, the deceased died on 8-11-1990 leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, on the day when the right of succession opened, the appellant, his widow became entitled to one-half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving son getting the same.

18. *In view of the clear legal position, it is made abundantly clear that the amount under any head can be received by the nominee, but the amount can be claimed by the heirs of the deceased in accordance with the law of succession governing them. In other words, nomination does not confer any beneficial interest on the nominee. In the instant case the amounts so received are to be distributed according to the Hindu Succession Act, 1956.*

19. *State Bank of India is directed to release half of the amount of the general provident fund to the appellant now within two months from today along with interest. The appeal filed by the appellant is accordingly allowed and disposed of, leaving the parties to bear their own costs."*

8. From the above law as laid down by the Supreme Court, it is therefore clear that merely because of the fact that the Respondent Nos. 7 and 8 are nominees of the three insurance policies in question, the Respondent No.7 and 8 do not have an exclusive beneficial interest upon the amounts payable under the said life insurance policies on the death of Late Rajeeb Boruah. However, for the respondent Insurance Corporation to get a valid discharge, they have to disburse the amounts payable under the said three insurance policy as per the nominations of the said policies. Under such circumstances, this Court is of the opinion that the Respondent Corporation is required to make payment of the amounts payable under the three insurance policies as per the nominations contained in the policies.

9. This Court however taking into account the well settled principles of law as above mentioned observes that merely because of the fact that the Respondent Nos.7 and 8 would be entitled to receive the amounts from the Respondent Corporation, would not entitle the Respondent Nos. 7 and 8 to the said amounts. The entitlement to the amounts so disbursed would depend as per the law of succession governing the Petitioner and the Respondent Nos. 7 and 8. The amount so disbursed by the Respondent Corporation to the Respondent Nos. 7 and 8 on account of the nominations have to be held in the capacity as trustee of the legal representatives of the deceased who died intestate.

10. At this stage, it is relevant to observe that the learned Standing counsel for the Respondent Corporation had submitted that in respect to the two policies wherein the Respondent No.7 was the nominee, the said amounts have already been disbursed. However, in respect to the policy wherein the Respondent No.8 is the nominee, the same is yet to be disbursed.

11. Taking into account the above, this Court therefore disposes of the instant writ petition with the following observations and directions:

- (i) The Respondent Corporation shall discharge the liability in terms with the Policy No. 444707681 by making payment to the Respondent No.8 on the expiry of 30 days from the date of the instant judgment.
- (ii) The Respondent Nos. 7 and 8 merely being nominees would not have any beneficial interest on the amounts disbursed and/or to be disbursed in respect to the Policy Nos. 486006062, 486008012 and 444707681 save as

entitled as per the law of succession. They would be deemed trustees to the said amounts disbursed by the Respondent Corporation against the aforestated three policies.

(iii) Taking into account that the Petitioner herein is widow of Late Rajeeb Boruah, she would be a Class 1 legal heir and would have a beneficial interest in the amounts payable under the aforestated three policies.

(iv) It is hoped and expected that the Petitioner and the Respondent Nos.7 and 8 arrive at consensus as regards the entitlement to the amounts against the three policies.

(v) In the circumstances, no settlement/consensus is arrived at, the Petitioner would be at liberty to take appropriate steps before the competent Court of jurisdiction.

JUDGE

Comparing Assistant