

PunjjiTimes

March-April, 2023

WE PLAN, YOU PROSPER



Meri Punji
WE PLAN, YOU PROSPER

UNLOCKING INHERITED ASSET BY LEGAL HEIR

(Insurance | Mutual Funds | Shares)

PART-3



FORM-IV

PunjiTimes
INVEST IN INVESTING

Statement about ownership and other particulars about newspaper/magazine ("PUNJI TIMES") to be published in the first issue every year after the last day of February

1. **Place of Publication** : 203, Siddhartha Chambers, Kalu Sarai,
Hauz Khas, New Delhi- 110016
2. **Periodicity of its Publication** : Bi-Monthly
3. **Printer's Name** : Ess Pee Printers
Nationality : ----N.a-----
Address : 1/12&13, DSIDC Shed, Tigri, New Delhi- 110062
4. **Publisher's Name** : Anil Kumar Goyal
Nationality : -----N.a-----
Address : 203, Siddhartha Chambers, Kalu Sarai,
Hauz Khas, New Delhi - 110016
5. **Editor's Name** : Anil Kumar Goyal
Nationality : Indian
Address : C-163, Ground Floor, Sarvodaya Enclave,
New Delhi- 110016

6. Name and Addresses of individuals who own the newspaper/magazine and partners or shareholders holding More than one per cent of the total capital.

S.No.	Name of the Shareholders	Residential Address	% Share Holding
1.	Anil K Goyal	C-163, Sarvodaya Enclave, New Delhi- 17	95 %
2.	Tarun Goyal	C-163, Sarvodaya Enclave, New Delhi- 17	5 %
		Total	100 %

We, hereby declare that the particulars given above are true to the best of my knowledge and belief.

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SONIKA BHARATI
DIRECTOR
DIN02915283

Dated:3/31/2023
Place: New Delhi



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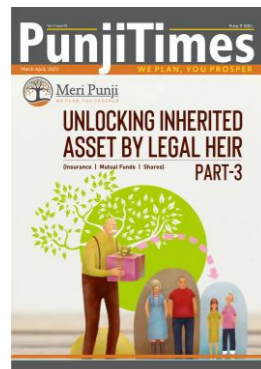
From the Editor's Desk

Passing is a fitting word to signify the end of a life; for one's passing means passing of the life's possession too. Sadly, the matters of heart and the matters of money rarely go as planned (or willed). After the demise of the loved one, conflicts over wills and court cases go hand in hand in the country.

Who is the true heir? How is a will settled? Who can claim a particular asset? How does distribution happen? Is there a tax on inheritance? The issue answers all such questions and more.

Hope you find the information useful.

Best,
Team Meri Punji



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PunjiTimes

WE PLAN, YOU PROSPER

VOLUME: 7

ISSUE: March-April, 2023

PERIODICITY: Bi-Monthly

RNI: DELENG/2017/72098

PUBLISHER: Meri Punji IMF Pvt. Ltd.

EDITOR-IN-CHIEF: Anil Kumar Goyal

WEBSITE: www.meripunji.com

EDITORIAL OFFICE:

Meri Punji IMF Private Limited
(Formerly known as P S Management Solutions Pvt. Ltd.)
203, Siddharth Chambers, Hauz Khas,
Kalu Sarai, (Adj. Azad Apts.)
New Delhi-110016

EMAIL: info@meripunji.com

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CONTENT SUPPORT:

Anil K Goyal & Associates
www.ahgassociates.com

PS Awareness and Learning Private
Limited

DESIGNED BY:

Digital Info Solutions Pvt. Ltd.
www.digitalsolutions.co.in

PRINTED AT:

Ess Pee Printers
1/12 and 13 DSIDC Shed, Tigri,
New Delhi-110062

PUBLISHED BY:

Meri Punji IMF Private Limited
(Formerly known as P S Management Solutions Pvt. Ltd.)
203, Siddharth Chambers, Hauz Khas,
Kalu Sarai, (Adj. Azad Apts.)
New Delhi-110016

Meri Punji IMF Private Limited does not take responsibility for returning unsolicited publication material.

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UNLOCKING INHERITED ASSETS BY LEGAL HEIR: INSURANCE



What happens to the insurance money when the insured passes away before the policy matures?

Well, the nominee declared by the deceased usually receives the entire amount for any type of insurance, be it term cover or whole life cover. If the policy nominee is also the only legal heir, they get to use and reinvest the lump sum as they want. But if the legal nominee is one of the heirs, they are entitled to only their part of the share.

However, if the nominee is not a legal heir or the insured has willed their insurance money to someone else, the nominee is only the receiver and caretaker of the insurance amount. The true receiver of the insurance money is called the beneficiary.

What happens when the insured declares no Nominee or the nominee passes away?

Although the nominee plays a crucial role in unlocking the policy money and distributing it as per the deceased's will, not all policyholders declare one.

While all life insurance providers today mandate the insured put down a nominee name and their details, people who got insured decades ago probably didn't have such an obligation.

In other cases, the nominee might pass away before or right after the insured's death. In either scenario, the entire life insurance sum goes to the rightful heir or heirs, as stated in the will. However, the deceased's will may or may not distribute the insurance sum equally between their spouse and children.



What happens when the insured doesn't declare a nominee and have any surviving heirs?

As tricky as this situation sounds, when there is no nominee and the deceased isn't survived by any legal heirs, the money goes to siblings and their children. But if no nominee, heir or siblings are found, the money goes to the government.

My father recently passed away without a will, but declared his brother as a nominee. Am I, my mother and sibling, entitled to the money?

Yes, according to the laws under the Hindu Succession Act 1957 and the Indian Succession Act 1925. In the absence of a will, all movable and immovable assets of the deceased are equally divided between their spouse, sons, and daughters, married or not.

So, unless the nominee is the deceased's spouse or children only the legal heir(s) are entitled to the deceased's insurance money. Even if the nominee is the spouse, they can keep only part of the funds. The remaining parts will be distributed between the children equally.

However, a succession certificate might be required to establish the authenticity of the rightful successor in the absence of a will.

4 simple steps to apply for a succession certificate

- Start by preparing your petition. Get the form for the same from the civil court in your jurisdiction, fill out the details, and submit it to the appropriate district judge. You can seek the assistance of a lawyer to make things quicker.
- The district judge will then go through your petition, and if everything is in the right order, they will admit it and fix a day for the final hearing. At this time, the court may send you, and other parties involved, a notice to be present.
- After hearing different parties and going through the documents pointing towards the rightful heir, the judge will decide if the petitioner is indeed the successor and has the right to receive the succession certificate.
- The judge will then award the succession certificate(s). The entire process typically takes anywhere between 5 to 7 months.

My father's will awards the insurance money to My uncle. Can I check its authenticity?

You can check whether the will in question was drafted by your father or not by applying for will probate. But only after 7 days of the person's demise. Once a civil court establishes the will's authenticity or probates it, you can rightfully collect and distribute the insurance money.

Is the inherited insurance money taxable?

The insurance money received by the nominee, and eventually, the beneficiary is not taxed. The beneficiary can further distribute the amount to their siblings or relatives without a tax liability attached. However, if the beneficiary makes any earnings on investments using the received money, they will be taxed depending on the nature of the investment and their income.

To conclude, the rights of the beneficiary are held above the rights of the nominee in the case of life insurance. Even if the nominee claims the death benefit, the money belongs to the beneficiary.



UNLOCKING INHERITED ASSETS BY LEGAL HEIR:

MUTUAL FUNDS

Upon an individual's demise, their mutual funds become a part of their estate and are transferred to the declared nominee. The nominee, however, is not necessarily the beneficiary of the funds but only a medium to redistribute them.

Ultimately, the transfer of mutual funds will depend on what the deceased's will demands. In case there isn't one, then the declared nominee retains control of the mutual funds until the rightful beneficiary comes along.

But if the person dies without a will or nominee, the deceased's legal heirs can directly stake a claim on the funds. Provided, they can produce the required documents. However, the claim process is nothing short of a maze for the inheritors.

Which Different Parties Can Claim Mutual Funds of the Deceased?

Typically, three types of claimants are eligible to transmit mutual fund units of a deceased investor.

Joint account holders

Remember, a mutual fund can be held jointly by up to 3 holders.

Nominee

Any person, usually a family member, declared as the caretaker of the funds.

Legal heirs

The deceased's next of kin who legally have the right to inherit mutual funds in the absence of joint account holders or a will.

At this point, it's crucial to note that a claimant doesn't necessarily become the beneficiary of the mutual funds.



How Does Each Party Inherit Deceased's Mutual Funds?

Single mutual fund account holder

If the mutual funds in question had only one owner, two claimant parties could access them. The first is the registered nominee. But in case there isn't a nominee, then the legal heir is the rightful owner of the funds. Or if multiple nominees are declared, then the funds are transmitted as per the percentage share specified in the nomination document.

Joint mutual fund account holders

If the deceased's mutual funds were held jointly, the surviving holder or holders could claim the mutual funds to distribute them to the rightful heirs. However, if all joint holders have passed away, the nominee can claim the mutual funds either to keep it or hand them over to the legal executor, who will then distribute them to the deceased's heirs.

Keep in mind that in the case of joint holding, the mutual funds will be distributed to rightful heirs of all joint holders, equally or in any pre-decided proportion.

Documents Required by Nominees, Joint Account Holders and Legal Heirs to Transmit Mutual funds.

The nominee, as well as joint account holders, can begin the claim or transfer processes by furnishing the following documents:

- **A covering letter for requesting the transmission of mutual funds.**
- **KYC documents of the nominee or other holder(s).**
- **Bank account details of the nominee or other holder(s).**
- **The notarized death certificate of the deceased.**

If legal heirs are directly claiming the mutual funds, they will need a different set of documents.

- **A will or will probate**

A will probate can be ordered at least 7 days after the individual passes away. The process of probating a will includes reviewing the will for authenticity. The rightful heir can file a petition to probate the will with the civil court, and once the court probates the will, it must be executed as it's written.

- **A succession certificate in the absence of a will**

A succession certificate states the rightful person or persons to be the successor of a deceased individual. An individual can apply for one with their jurisdiction's civil court by submitting documents such as the deceased's death certificate, petitioner's identity card, etc.

- **A notarized death certificate of the deceased**

- **KYC documents, such as identity and residence proof**

Parting Thoughts

At the end of the day, the deceased's mutual funds can only go to their willed heirs, which may or may not include the nominee or even family members. When the will award part of the estate to non-family entities, the deceased's kin can challenge its authenticity. If this happens, the rightful heir can move to court to probate the will.

Only in the absence of a will can these investments be equally divided among all rightful heirs, including spouse, sons and daughter (married or unmarried) who hold their succession certificate. This is the law as per the Hindu Succession Act of 1956 and the Indian Succession Act of 1925.



Nominees
Joint Account
Legal Heirs
Mutual funds.

UNLOCKING INHERITED ASSETS BY LEGAL HEIR: SHARES

After the demise of a person, their legal heir or successor is entitled to receive all the investments left behind, including shares. It happens through a process called share transmission.

Relevant authorities usually transfer the shares in question to the stated nominee. To do this, they don't require a will. However, the nominee may or may not be the legal heir. In case they are not the true successor of the deceased, the nominee can further transfer the shares to the rightful successor.

The Process of Transmitting Shares to the Nominee

The process of share transmission is straight forward and requires minimal paperwork. Here's how you can get started.

- If you're the deceased's nominee, fill out a transmission request form. You may find one online, but it's best to get one from the depository participant (CDSL, NSDL, Sharekhan or others) who invested in shares on the deceased's behalf. In fact, they can guide you through the entire process comprehensively.
- After duly filling out the form, submit the notarised death certificate copy.
- Depending on which depository partner you're dealing with, you may be requested to submit relationship proof with the deceased. Your address or identity proof documents will suffice here.
- Once the deceased's depository participant receives all relevant documentation, they will take a few days to scrutinise the nominee's application. If satisfied with the paperwork, they will transfer the deceased's shares into your Demat account. Remember, you cannot hold or trade shares without a Demat account.

You might wonder if there is a way to transfer shares of a deceased person online. This convenience is not permitted as it's hard to authenticate transmission of shares online. As a nominee, you must physically approach the depository participant's office to transfer shares from the deceased's Demat account into yours.

Also, whether you wish to liquidate or hold on to the deceased's shares, you can do it only after transferring them into your Demat account.

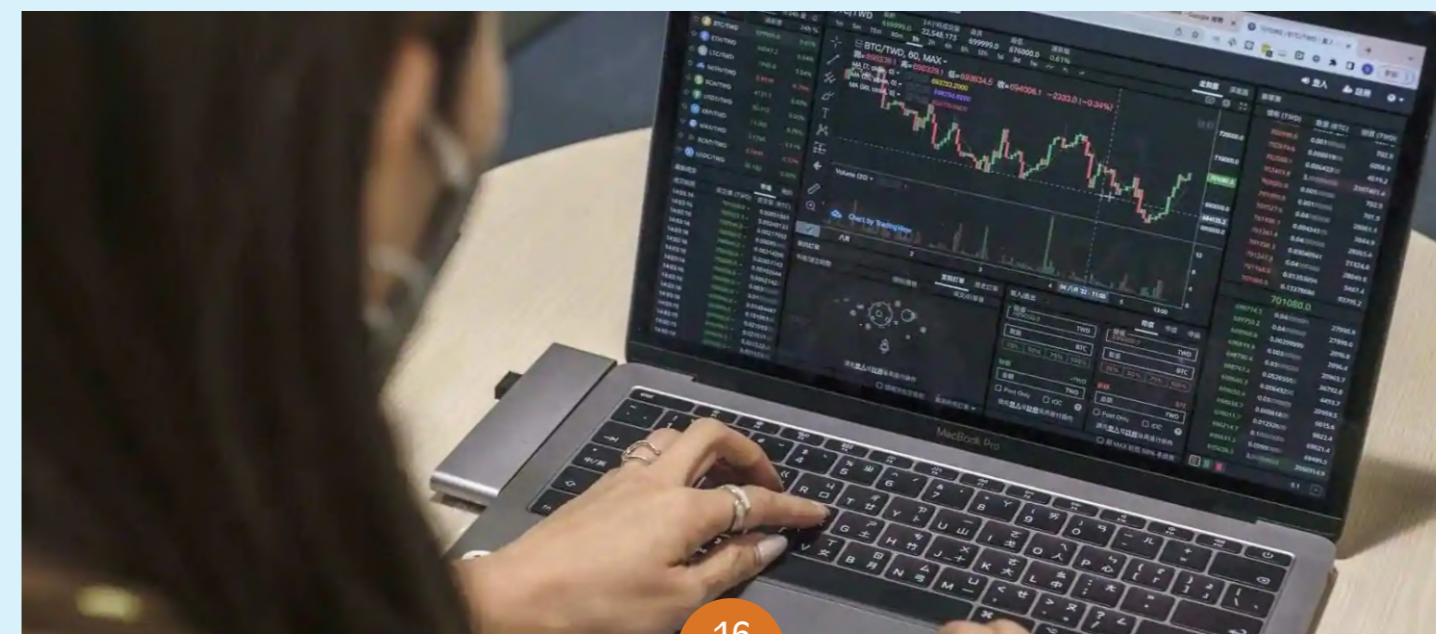
My Late Father Did Not Declare a Nominee. What Do I Do?

If there is no declared nominee, then as per SEBI LODR directives, the depository participant will transmit shares to the deceased's legal heir or identified legal heir. The latter comes into the picture when the deceased does not leave a will or declare a nominee.

In the absence of a will or probated will, the rightful heir has to produce a succession certificate. Issued by a civil court, it certifies a person as the rightful successor of a deceased individual. This document is instrumental for a deceased person's legal heir to realise any securities or debts in their name.

To simplify, the transmission of shares usually goes like this:

- The declared nominee receives the deceased's shares.
- If the deceased did not declare a nominee, shares are transmitted to the legal heir as declared in the deceased's will or will probate. A probated will is considered the authentic will's copy certified by the court. While probate is not mandatory, it ensures authenticity, especially if someone wishes to challenge the will.
- In the absence of the will or nominee, many parties can claim they are the rightful successors of the deceased's shares. In such a case, the heir must submit a succession certificate.



Taxation on Deceased's Shares

Once the rightful heir, who can or cannot be the nominee, inherits the deceased's shares, they don't pay any tax. Even when they sell the deceased's shares, they don't pay any long-term capital gains tax. In case the heir transfers the inherited shares to other relatives or spouse, etc., s/he can do so without paying any tax.

However, when recipients of gifted shares start liquidating them, they will have to pay capital gains tax. Here's exactly how much:

Item	Long-term capital gains (more than 1 year)	Short-term capital gains (less than 1 year)
Shares	Taxed at 20%. However, any long term capital gain under Rs. 1 Lakh is exempt from tax.	Taxed at 15%

One Will to Rule Them All

It's no secret that without a nominee or a will, probated or not, the matters of succession can get complicated. Many may have to fight for what's rightfully theirs.

To ensure your family members don't have to put up such a fight, draft a will well in time. Sure, you can make a will on your own. But having a third party in presence always awards more credibility. You can award execution rights to a trusted lawyer or any other neutral party and ensure that there are no discrepancies in the division of assets.





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Every individual is unique and so are his or her investment needs. Investment planning must always be aligned with one's goals. Hence, our approach is to help you chalk out an investment strategy that is best fit for 'you'.

We see ourselves as educators rather than advisors. Our endeavor is to build awareness about the various kinds of investment products in the market. After all, an informed decision is always a better decision.

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