

PunjjiTimes

May-June, 2023

WE PLAN, YOU PROSPER



Meri Punji
WE PLAN, YOU PROSPER

UNLOCKING INHERITED ASSET BY LEGAL HEIR

(Debt- Loans | Statutory Dues)

PART-4



AKG ADVISORY LLP

Corporate and Legal Consultancy Firm

www.akgadvisory.com



Formation of Companies, Trust, Firm, Society and Offshore Entity



Legal Matters



FEMA and RBI



Will



Corporate Advisory



Company Law and Secretarial Compliances

EXPERIENCE! CREATIVITY! RESULTS!

OUR MISSION IS YOUR SUCCESS

Exceeding Customer Expectations
ACHIEVED BY
Doing Things a Different Way

DELIVERS WITH
Speed Quality and Expertise

SOME BUSINESS ISSUES AREN'T ALWAYS WHAT THEY SEEM!

AKG ADVISORY, DOING THINGS IN DIFFERENT WAY



📍 202, Siddhartha Chambers, Near IIT, Kalu Sarai, Hauz Khas, New Delhi-110016.

☎ +91 9891 799 721

✉ info@akgadvisory.com

AKG Advisory LLP
Corporate and Legal Consultancy Firm



Our Products



www.dms.in.net



www.digitalbilling.co.in



www.dispayroll.com

Our Services



Web Hosting, E-Mail Management and Allied Services



Software Process Audit



Custom Software Mobile App and Allied Services



Data Analysis and Management



Payroll Management



IT Consulting Services

YOUR TECHNOLOGY PARTNER

digital
info solutions
www.digitalsolutions.co.in

SIMPLIFYING PROCESSES!

- Creating Innovative solutions with the integration of information, design and technology
- Simplifying complex processes

☎ + 91 7291 987007

✉ info@digitalsolutions.co.in

📍 106, Siddharth Chambers, Hauz Khas, Kalu Sarai, New Delhi-110016

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



Punji (noun/Hindi) - Capital meaning, wealth in the form of money or other assets owned by a person or organization or available for a purpose such as starting a company or investing.

Disclaimer

The opinions, beliefs and viewpoints expressed by the various authors in this magazine do not necessarily reflect the opinions, beliefs, and viewpoints of the owner/publisher. Placing an advertisement in this magazine does not imply endorsement by the owner/publisher. The information/articles given in this edition have been sourced from open-source web. We do not take any responsibility of the correctness of the information as the information may tend to change or differ from time to time. All content in this magazine is for informative purposes only and does not amount to professional advice. The publisher does not seek to influence the reader's financial decision-making in any way whatsoever. Please consult your financial advisor before taking any decision. The intellectual property rights in all material contained in this magazine are owned by Meri Punji IMF Private Limited, and can be reproduced only after obtaining prior written consent.

PunjiTimes
WE PLAN, YOU PROSPER

VOLUME: 7

ISSUE: May-June, 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

COPYRIGHT:

Meri Punji IMF Private Limited
(Formerly known as P S Management Solutions Pvt. Ltd.)
All rights reserved worldwide.

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.

May -June, 2023

CONTENTS

Unlocking Inherited Assets by Legal Heir
Debt- Loans

5

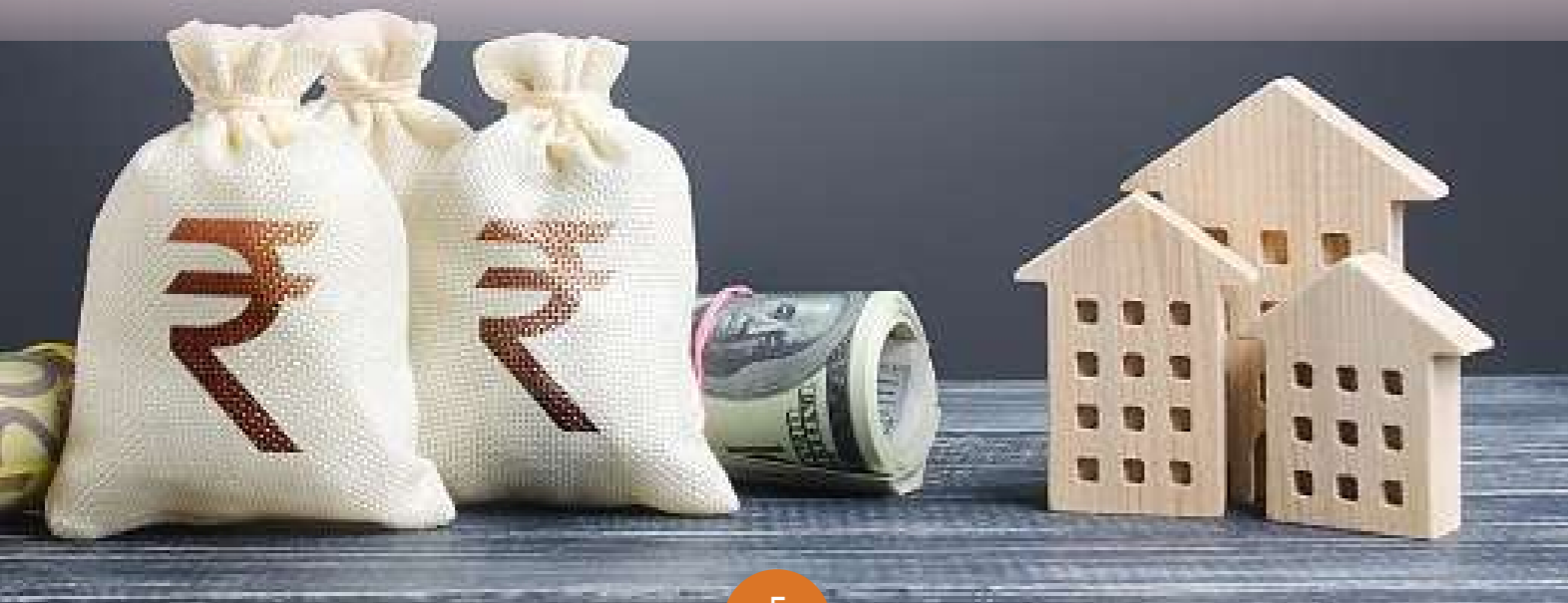
Unlocking Inherited Assets by Legal Heir
Statutory Dues

11

UNLOCKING INHERITED ASSETS BY LEGAL HEIR: DEBT-LOANS

Unlike assets, loans and liabilities are not passed onto the deceased's legal heirs. Be it an unpaid home loan, car loan, or personal loan, the deceased's rightful heirs are legally exempt from paying them under certain circumstances.

However, if the legal heirs gain ownership of the deceased's assets carrying a debt and intend to use them, they will have to transfer the loan in their name. Or, pay the outstanding loan balance in one go and foreclose the loan. If not, the lending party will cease the deceased's assets and sell them to cover the loan amount. But if the loan is not secured against a security, the process gets a little confusing.

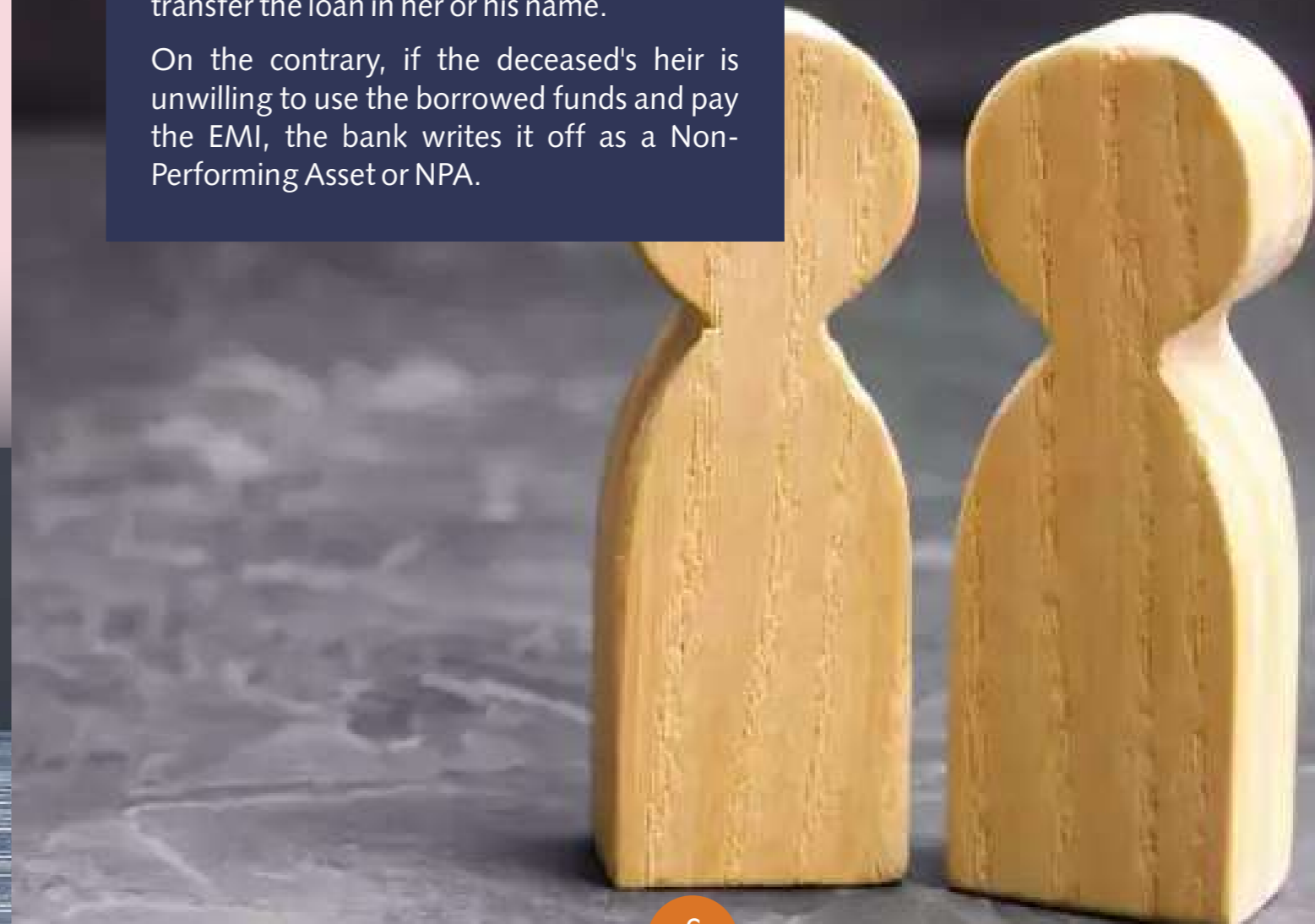


Who Repays Unsecured Loans Taken by the Deceased?

Since unsecured loans are sanctioned without collateral, they often come with a higher interest rate. One of the most popular types of unsecured credits in India include a personal loan and credit card.

When a borrower passes away in the midst of repaying the EMIs on their unsecured loan, the bank doesn't mandate their legal heir to take over the loan balance. But the bank can legally turn towards a co-applicant, if present. But under no circumstance can a bank force the deceased's successor – who isn't a co-borrower – to repay the loan instalments unless the successor wishes to transfer the loan in her or his name.

On the contrary, if the deceased's heir is unwilling to use the borrowed funds and pay the EMI, the bank writes it off as a Non-Performing Asset or NPA.





Who Repays Secured Loans Taken by the Deceased?

All secured loans are backed by assets. As a result, the lenders usually have more ways than one to get back the credited amount. Here are two examples to make the course clear for you.

Home Loan

If two individuals apply for a joint home loan and one of them passes away, the entire responsibility of repaying the loan balance falls on the co-applicant.

However, suppose the co-applicant is not repaying the home loan EMIs. In that case, the bank has the right to send recovery agents for collection or take the co-borrower to court. This is usually the course followed by lending institutions when the deceased or the co-applicant's family continues residing in the financed house.

LOANS

LOANS

LOANS

However, dragging the co-applicants or the deceased's family members residing in the financed house to court is of no interest to the lenders. In such a case, the bank typically repossesses the house and sells it off to recover the remaining loan amount.

But if the legal heirs or the co-applicant wishes to continue residing in the financed home, they must transfer the loan in their name and repay EMIs.

Vehicle Loans

The primary responsibility of repaying the deceased's vehicle loan falls on their family. However, the bank cannot force them to take over the loan if they don't want to keep the vehicle.

Here is how the two scenarios will play out.

Scenario	Course of Action
If the legal heir or heirs of the deceased wish to use the vehicle.	The legal heir will need to transfer the loan in their name and repay the outstanding balance.
If they don't want to use the vehicle or don't wish to pay the loan.	The bank can repossess the vehicle and auction it to recover the remaining loan amount.

To conclude, the legal heirs must not forget to inform the lending institution of the borrower's demise as soon as possible. Most banks are cooperative when they hear such news and may even offer a temporary EMI holiday if you wish to transfer and continue repaying the loan.

If not, you can allow them to repossess the property or vehicle in question.

UNLOCKING INHERITED ASSETS BY LEGAL HEIR: STATUTORY DUES

The passing of a loved one is the most challenging time in anyone's life. However, tidying up the financial matters of the deceased is equally critical. One such financial affair is the succession of the deceased's estate.

The legal heir or the beneficiary may get a share of the estate (if not the whole pie). This is common knowledge. They will receive movable and immovable assets as willed by the deceased or according to the Indian law of inheritance.

However, not every inherited asset will be free of liability or obligations. Yes, the ancestral property does not carry a tax liability. But some assets may carry statutory dues like sales tax, income tax, or value-added tax, which may or may not have to be discharged by the successor.

Here are two scenarios of how liability is transferred.

Scenario	Law of Inheritance
When the person dies leaving a will.	Assets are transferred/divided with dues liability according to the endowment of the will.
When the person dies intestate (or without a will)	Assets are transferred/divided with dues liability according to the Indian Succession Act or the Hindu Succession Act, 2005

As the Legal Heir or Beneficiary, Are You Liable to Pay the Deceased's Dues?

It depends.

To safeguard the interest of the creditors, the law decrees the succession of assets with the liability attached.

However, the nuances vary from one asset class to another, as defined under the succession acts. Or what the successor does with the inherited assets. In fact, successors are only liable to pay the dues to the extent they have inherited the deceased's assets.

Let us take the example of Mr. Shukla and his daughter. Mr. Shukla owned a small business in the textile industry. After his untimely demise, the company was passed on to the daughter according to Mr. Shukla's will, but with a liability of Rs. 50, 000 under the GST. As per the law of succession, Mr. Shukla's daughter will now be responsible for clearing the pending dues. However, instead of running the business herself, his daughter decided to discontinue the business and did not inherit a single penny. Is she liable to pay the GST dues of her father now? Well, no.

On the contrary, if Mr. Shukla's daughter had decided to take on the company ownership and continue operations, she would have had to pay the GST dues of Rs. 50, 000 herself. However, not with her own money, but using the company assets.

To Inherit or Not to Inherit

Just because a loved one made you the beneficiary or willed an asset to your name, doesn't mean you are obligated to follow the order of succession.

In fact, the legal heir(s) or the beneficiary has the right to accept or reject a bequest. They don't have to inherit assets just because they have been endowed. However, at the same time, they cannot accept the asset and leave out the associated liabilities. If they accept the endowment of the deceased's will and inherit the asset, the legal heir(s) are bound by law to inherit the debt. They need to pay unpaid taxes or statutory dues against the inherited asset. That's what the law says, essentially.

Contrary to the traditional belief, repayment of a father's debt is not a son's pious duty. At least according to the law of succession in India.

Nevertheless, should the heir, beneficiary, or legal representative accept the asset willed to them, they will have to act as per the course of action laid out by the law. Then they will be legally obliged to pay the pending dues, fully or partially.





Meri Punji
WE PLAN, YOU PROSPER



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.

info@meripunji.com

203, Siddharth Chambers, Hauz Khas, Kalu Sarai, (Adj. Azad Apts.), New Delhi - 110016

www.meripunji.com