Justice Muhammad Taqi Usmani

Sent:

Ishaque Noor | Albatha [inoor@albatha.com] Saturday, November 09, 2013 10:02 AM

Mr. Raffat; Mr. Justice Mohammad Taqi Usmani

To:

Regular pension payments to wife after death of husband

I shall be grateful if we can have guidance of Justice Saheb on the following question:

Question

If the person who has died also had a 'pension' scheme which has a condition that the pension will continue until the lifetime of his wife, then any pension amount a during the lifetime of the wife will belong fully upon receipt of the pension.

If it will be distributed would it be to the surviving inheritors of the deceased at the time of each such receipt.

Thank you Best regards Ishaque



بم الله الرحن الرحيم الجواب حامدًا ومصلّياً

واضح رہے کہ ماہ بماہ ملنے والی پیشن کے متعلق چونکہ حکومتِ پاکستان کا قانون بیہے کہ اگر حکومت ہیوہ
یاکسی بھی وارث کو نامز دکر کے پیشن کی رقم با قاعد ہالک بناکر دے دے تو وہ شخص اس کامالک ہو گااور مرحوم
کے ورثاء میں تقسیم نہیں ہوگی، للذامذ کورہ صورت میں اگر حکومت ہیوہ کو نامز دکر کے پیشن کی رقم دھے رہی
ہے تو ہیوہ اس کی مالک ہے ، دیگر وُرثاء کا اس میں کوئی حق نہیں ہے ، قانون کی عبارت ملاحظہ فرمائیں۔

"It is clearly a gift or a concession given by the government in order maintain the widow or other members of the family of the deceased who on account of dependence upon him for their living would be hard hit by his death, it is not the right of the deceased, it is not therefore heritable." (P.1.d. fsc 150,1981)

بدائع الصنائع في ترتيب الشرائع - (7 / 57)

لأن الإرث إنما يجري في المتروك من ملك أو حق للمورث على ما قال «- عليه الصلاة والسلام - من ترك مالا أو حقا فهو لورثته»... لأن الإرث إنما يجري في المتروك من ملك أو حق للمورث عليه ما قال «- عليه الصلاة والسلام - من ترك مالا أو حقا فهو لورثته» والله اعلم بالصواب

والبداع بالصواب مرحم الله عنه الله عنه

دارالا فتاء جامعه دارالعلو كراجي

٣٢ر بيجالاني ١٣٣٥ ه

۲۳ فروری۱۱۰۲ء

1/20/1/8/ 1/2/10

الحواث المحالة المعالمة





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بسم الله الرحمن الرحيم

English Translation of the Answer

The Law of the Government of Pakistan clearly states regarding the monthly pension that if the Government gives the pension amount to the widow or any other nominated heirs by duly making such heir the owner of this amount then the nominated heir shall be the owner of the pension amount and it will not be distributed amongst the heirs of the deceased as inheritance. Therefore, in the mentioned situation if the Government is giving the pension to the widow as the nominated recipient then the widow is the owner of the pension amount, and the rest of the heirs do not have any right in this pension amount.

The wording of the law is mentioned hereafter:

"It is clearly a gift or a concession given by the government in order maintain the widow or other members of the family of the deceased who on account of dependence upon him for their living would be hard hit by his-death, it is not the right of the deceased, it is not therefore heritable." (P.l.d. fsc 150,1981)