



How legal heirs can claim bank accounts without any nominees

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Until the demise of her father-in-law, a Jamnagar, Gujarat-based resident and her family were not aware how difficult it could be to withdraw funds from a deceased person's bank account. The woman, who did not want to be identified, said her father-in-law did not have a nominee for a fixed deposit of ₹20 lakh with State Bank of India (SBI). The responsibility to get the money squarely fell on her, a widow with two minor daughters.

“All legal heirs, which included two of my sisters-in-law, were required to sign an affidavit. Both of them don't live in Jamnagar and I had to run from pillar to post over a period of five months to complete the process. And if that wasn't enough, the bank manager also asked us to get signatures of two non-family members along with their statements of income, which should have been more than the FD amount,” she said.

In another such case, a London resident and his two siblings have been struggling to get their rightful claim over their deceased parents' money lying in bank deposits and lockers for nearly seven years. “My parents were nominees in each other's accounts. They passed away within a year of each other and we did not bother to get nominations changed in the interim” said the London resident, who also did not want to be identified. “As both of my parents had not made a will and neither of us were nominees, we are not able to access their savings of about ₹70 lakh.

Stories like these bring home the importance of declaring your nominations with banks to ensure that your heirs get easy access to accounts. Financial planners told Mint that such stories are common as a majority of the people do not check or update their nominations across bank accounts, investments, insurance, etc., regularly.

“There could also be instances wherein nominations that have already been registered getting wiped out when a bank or the regulator comes up with a new policy. Or a case where your nominee has died and you forget to update the nomination. It is a good practice to check nominations once in a year to avoid hassles later,” said Amit Suri, a Delhi-based financial planner.

Where a nominee is not named, legal heirs have to go through a tedious legal process to get the claim. This article tells you about the challenges heirs can face if the primary account holder of a bank account and provident fund (PF) dies without naming a nominee and what steps are need to claim the settlement.

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Succession certificate

Banks transfer funds to legal heirs on the basis of a succession certificate, which all the legal heirs are required to get. This process can take up to a year and can cost a fortune.

“We siblings haven’t been able to appear in the court in Delhi at the same time, as my brother and I live in the UK. We have decided to give our sister power of attorney to get the succession certificate alone, but the process will either take a year or we will need to cough up ₹15 lakh to fasten the process through lawyers,” said the London resident.

Alternatively, some banks may also settle the claim against an affidavit signed by all heirs along with an indemnity bond. This is typically accepted when the claim amount is small.

“The Reserve Bank of India (RBI) has permitted banks to fix (keeping in view their risk management systems) a minimum account balance threshold up to which claims can be settled only on the basis of a letter of indemnity,” said Sonam Chandwani, managing partner, KS Legal & Associates.

Rajat Dutta, founder and initiator, Inheritance Needs Services, added, “The cost of getting a succession certificate, including the court fees and lawyers’ charges, starts at ₹1.25 lakh and can be higher in cases where court fees and lawyers’ fees are dependent on the percentage of the value of the asset. Keeping this in mind, banks ask for a joint application from legal heirs along with an indemnity bond with surety to save the cost and time for the heirs.”

In either case, the heirs also have the responsibility to prove to the bank via a declaration in a newspaper or an affidavit that there are no disputes among the claimants with regard to the succession.

However, before you take up any of these routes, check whether the deceased has left a Will or not. Banks transfer funds on the basis of succession rules as laid out in the Will but conditions still apply.

“If the Will produced by the claimant is a normal Will, then the bank needs to collect consent from all the legal heirs of the deceased person before discharging the deposit. If the will is probated, banks need not get consent from the legal heirs,” said Rathish R, senior vice president and country head - deposits, fee income and business banking.

A probated Will is certified by a court. “A Will can be modified several times and there’s no way for the banks to ascertain whether the Will submitted by the claimant is latest or not. Probated Will is certified under the seal of court and has legal validity which could be accepted by the bank. So, a Will other than probated Will is considered as normal,” added Rathish.

Take note that just naming a nominee in a bank account does not by default make the same person nominee in deposit or lockers with the same bank. “Nomination has to be separately registered under bank account and fixed deposits for them to be valid,” said Jojo Antony, joint general manager - facility management group, South Indian Bank.