



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI**  
**SUCCESSION CAUSE NO. 761 OF 2013**  
**IN THE MATTER OF THE ESTATE OF G M A**

**RULING**

1. The deceased G M A died on the 20<sup>th</sup> July, 2012. The administrators of the deceased's estate are Rose Atieno Amoke and Emma Achieng Oray. The beneficiaries are:

- i. R A O      Widow
- ii. L A O      Daughter
- iii. N A A      Daughter
- iv. J A A      Daughter
- v. S B A      Daughter
- vi. M T A      Daughter
- vii. A S O A      Son

2. On the 28<sup>th</sup> January, 2014 the grant of letters of administration issued on the 13<sup>th</sup> June, 2013 was confirmed by the Court with an order that the estate of the deceased to be distributed in accordance to the a consent of mode of distribution filed in Court on 26<sup>th</sup> September, 2013. As per the said consent the assests mentioned being the Sacco shares and the retirement benefits were to go to R A A . On the 12th February 2014 parties recorded a consent to include A A as a beneficiary. On the 17<sup>th</sup> March, 2014 the Court ordered a hearing on the mode of distribution of the assets of the deceased in compliance the said Court order. The first administrator R A O filed an affidavit dated 11<sup>th</sup> of March indicating the beneficiaries assets and mode of distribution as follows:

<b>No.</b>	<b><u>NAME OF BENEFICIARY AGE &amp; STATUS</u></b>	<b><u>STATUS</u></b>	<b><u>SCHOOL FEES AND OTHER REQUIREMENT'S FOR MAINTENANCE</u></b>	<b><u>RESIDES WITH</u></b>	<b><u>PROPOSED MODE OF DISTRIBUTION</u></b>
1	R A O, ADULT	WIDOW		SELF	20%
2	L A, 25 YEARS	MARRIED		MARRIED	5%
3	N A A, 18 YEARS	MARRIED		MARRIED	5%
4	J A A, 15 YEARS	STUDENT	FORM ONE, [PARTICULARS WITHHELD] GIRLS		10%

			SECONDARY SCHOOL		
5	S B A, 11 YEARS	STUDENT	CLASS 6, [PARTICULARS WITHHELD] ACADEMY	R A O	10%
6	M T A, 4 YEARS	STUDENT	BABY CLASS, [PARTICULARS WITHHELD] ACADEMY	R A O	20%
7	A S A, 1 YEAR	MINOR		R A O	30%
					<b>100%</b>
8	The Petitioner Advocate to be paid from the estate of the deceased				

i. Sacco Shares Iberafrica Power (E.A) Ltd Kshs. 260,000/=

ii. Retirement Benefits with Retirement Benefits Authority Kshs. 360,000/=.

iii. Death gratuity at Iberafrica Power (E.A) Ltd estimated at Kshs. 5 to 6 million.

3. Linet Adhiambo Asembo the deceased's first born from his first wife S A A (deceased) objected the mode of distribution as stated in the consent to mode of distribution filed by the first administrator . She has in her affidavit dated 12<sup>th</sup> June, 2015 deponed that they held a meeting at the petitioner's advocates office and agreed that the deceased gratuity be shared in the ratio of 52 to 48 percent, 52 going to the petitioner. There is also an affidavit by G O A a brother to the deceased who states that the deceased had two wives and proposes that the deceased benefits be dividend on a 50:50 basis between R A A and the children of the first wife.

4. I have considered the proposed mode of the distribution as suggested by the parties. The deceased first wife who is also deceased, left three children who are now 23 years, 17 years and 15 years respectively as stated in the affidavit of L A . The first administrator's children are 11 years, 4 years and 1 year respectively as stated in her affidavit . The first administrator's children are fairly young compared to the second wife's children. I note that all the deceased's children need to have proper education and care. I will not make a decision on the personal disputes the parties have had since the deceased death as the main issue for consideration is the mode of distribution. Having considered the age of children in my view the deceased gratuity should be shared in the ration of 60 to 40. 60 going to the petitioner. Of the 60% R A O will get 5%. S B A will get 10%, M T A will get 20% and A S A will get 25%. L A will get 5%, N A A will get 10% and J A A will get 30%. The monies paid out in respect of the minors shall be invested in an Investment Company or Bond. The parties shall adduce evidence of such investment within 45 days from the date of this ruling. Rose Otieno Amoke shall get the Retirement Benefits for Kshs 360,000/= to use for the upkeep of the minors. The lawyers' fees shall be paid from the estate. The administrators shall furnish records of the account of the status of the investment every six months to the Deputy Registrar of Family Division. The Sacco shares shall be distributed as per the list of beneficiaries as indicated in the Society's records. This being a family matter I make no orders as to costs. It is so ordered.

Dated, signed and delivered this **18th** day of **September 2015**

**R. E. OUGO**

**JUDGE**

In the Presence of:

.....**For the Administrators**

..... **For the Objector**

**Charity      Court Clerk.**