

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 761 OF 2013

IN THE MATTER OF THE ESTATE OF GMA

RULING

1. The deceased GMA died on the 20th July, 2012. The administrators of the deceased's estate are RAA and EAO. The beneficiaries are;

- | | |
|--------------|----------|
| i. RAO | Widow |
| ii. LAO | Daughter |
| iii. NAA | Daughter |
| iv. J A A | Daughter |
| v. S A | Daughter |
| vi. M T A | Daughter |
| vii. A S O A | Son |

2. On the 28th January, 2014 the grant of letters of administration issued on the 13th 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 26th September, 2013. As per the said consent the assets mentioned being the Sacco shares and the retirement benefits were to go to RAA. On the 12th February 2014 parties recorded a consent to include LAA as a beneficiary. On the 17th 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 RAO filed an affidavit dated 11th of March indicating the beneficiaries assets and mode of distribution as follows:

<u>No.</u>	<u>NAME OF BENEFICIARY & STATUS</u>	<u>STATUS</u>	<u>SCHOOL FEES AND OTHER REQUIREMENT'S FOR MAINTENANCE</u>	<u>RESIDES WITH</u>	<u>PROPOSED MODE OF DISTRIBUTION</u>
1	RAO, ADULT	WIDOW		SELF	20%
2	L A, 25 YEARS	MARRIED		MARRIED	5%
3	NAA, 18 YEARS	MARRIED		MARRIED	5%
4	J A A, 15 YEARS	STUDENT	FORM ONE, [particulars withheld] GIRLS SECONDARY SCHOOL		10%
5	S A, 11 YEARS	STUDENT	CLASS 6, [particulars withheld] ACADEMY	RAO	10%
6	M T A, 4 YEARS	STUDENT	BABY CLASS, [particulars withheld]	RAO	20%

			withheld] ACADEMY		
7	A S A, 1 YEAR	MINOR		RAO	30%
					100%
8	The Petitioner Advocate to be paid from the estate of the deceased				

- i. Sacco Shares [particulars withheld] (E.A) Ltd Kshs. 260,000/=
- ii. Retirement Benefits with Retirement Benefits Authority Kshs. 360,000/=.
- iii. Death gratuity at [particulars withheld] (E.A) Ltd estimated at Kshs. 5 to 6 million.

3. LAA the deceased's first born from his first wife SAA (deceased) objected to the mode of distribution as stated in the consent to mode of distribution filed by the first administrator. She has in her affidavit dated 12th 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 GOA 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 RAA 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 LA. The first administrator's children are 12 years, 41/2 years and 2 year respectively as stated in her affidavit. The first administrator's children are fairly young compared to the first 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.

5. 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 first administrator. Of the 60% RAA will get 5%. S A will get 10%, MTA will get 20% and ASA will get 25%. LA will get 5%, NAA will get 10% and JAA 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 to this Court. ROA shall get the Retirement Benefits for Kshs 360,000/= to use for the upkeep of the minors. The lawyers' reasonable 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.