

Just nomination is not enough

A nominee is not the owner of the asset, unless a will says so

Most of us are busy slogging for better pay. We spend a lot of time planning our finances, pondering over that expensive house we plan to buy and creating wealth through stocks and gold. For many, the sole motive of such measures is leaving a legacy for their children. Therefore, it's important that the wealth falls into the right hands.

Why is nomination important? It plays a crucial role while investing in financial products. It is vital to have a nominee, as well as a will in place, as there should be someone to take charge of your money in case you die. The nominee has to distribute the wealth received by him/her on the basis of succession laws.

Financial planners say typically, the nominee should be the one who inherits the wealth. However, for most financial products, the nominee will not receive the assets unless it is mentioned in the will.

Property: In 2009, Tarabai fought a property case in the Bombay High Court against her son, Rameshchandra. Tarabai's late husband, Ramdas Shivram Sattur, had bought a plot in Nav Rajasthan Co-operative Housing Society in Pune, with Tarabai named as the nominee. After his death, when Tarabai tried to sell the property, she was sued by her four children, who claimed equal shares in the property.

According to the court's ruling, in a co-operative housing society, the nominee does not inherit the property and the asset must be distributed according to the will. In the absence of a will, the legal heirs have a right to the property.

Anshuman Jagtap, advocate, Hariani Co, says a nominee to a property in a housing society doesn't automatically inherit that asset. "For instance, on the death of the original owner, the housing society has to transfer the shares of the deceased to the nominee, who must, in turn, transfer those to the legal heirs." In other words, if the deceased doesn't leave a will, the wife and children can claim their rights on the property equally.

Insurance: Experts say many have lost cases in anticipation the maturity amount for an insurance policy would go to the nominee, who they feel is the legal owner. However, Gaurav Mashruwala, a Mumbai-based financial planner, says a nominee to any financial product is merely a trustee who receives assets on the death of the owner. "For instance, if you want the nominee to receive the maturity amount, the person who made investments should ensure he says this in the will." Else, the maturity amount will go to the nominee, who will be liable to give that money to the legal heir of the deceased - the mother, the wife or the children. If the legal heir is

the nominee, one needn't worry, as irrespective of the will, the wealth will go to him/her.

Public Provident Fund (PPF) Employees' Provident Fund (EPF): In case of PPF, an outsider can also become a nominee, though usually, the spouse and children are the nominees. "The exclusive right of the nominee in a PPF is to receive and not provide that the same shall become the absolute property of the nominee," said a ruling in the Manjula Verma vs Kumari Sarla Verma case on December 3, 2007.

Under EPF, the family may include dependent parents, while under the pension fund, it is restricted to the spouse and children. Therefore, it is advisable to have the spouse as nominee, in case a nominee hasn't been named before marriage.

In case of EPF, the nominee, not the person stated in the will, inherits the amount. In fact, here, one cannot nominate any person other than a family member for an EPF account, unless he/she doesn't have a family. In such a case, once the person has a family, the nomination has to be in favour of a family member. One may also nominate multiple family members and state the proportions in which they are to inherit EPF amount.

Other investments: This relates to bank accounts, mutual funds, etc. In the Arnab Kumar Sarkar vs Reba Mukherjee others case in 2006, the Calcutta High Court ruled nomination in a bank deposit could not be elevated to the status of a testamentary disposition due to the demise of the depositor before the proceeds from the deposits were received. One might open a bank account with a family member, which allows the survivor to operate it, and invest jointly in savings certificates mutual funds.

Suresh Sadagopan, who runs Ladder 7 Financial Advisory Services, says one should remember to keep his/her spouse or other family members updated on assets and liabilities. "Most youngsters should remember to change their nomination after marriage." If you don't want to disclose it right away, keep a record at a safe place and let your family know where to look for it if need be. Remember, just appointing nominees isn't enough, especially when it comes to financial products. Source-business standard -02-12-2013