IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDICTION

Civil Action No.: HBP 186 of 2016

Re Application for Release of funds remitted from FNPF by De facto partner

Counsel : **Ms. N. Raikaci for Applicant**
Mr. M.Waqavanua M for Respondent

Date of Hearing : **21.05.2019**

Date of Ruling : **28.05.2019**

Catch Words- De facto partner- FNPF Act 2011, Section 57- Just Disposition ,Section 6 of Succession Probate and Administration Act, 1970- Act No 6 of 2018(Succession Probate Administration (Amendment) Act 2018 - surviving wife – former de facto partner

JUDGMENT

INTRODUCTION

1 This is an application by *de facto* partner of deceased for release of funds remitted to High Court in terms of Fiji National Provident Fund (FNPF) Act, 2011. Funds are remitted to High Court, due to absence of nomination by deceased member of the said fund. Deceased was never married but he was in *de facto* relationship with the Applicant at the time of death. Previously, he had a relationship with Respondent, for nearly 10 years and they also had two children from that relationship. Paternity of children is not disputed. According to the Plaintiff, Respondent had left the deceased for another man and a Domestic Violence Restraining Order (DVRO) was also obtained by Respondent against the Deceased. Applicant's a *de facto* relationship with Deceased, commenced in or around 2011 and they were in *de facto* relationship at the time of demise (i.e 12.02.2016). Applicant was informed about the earlier relationship with Respondent. Her

oral evidence at hearing, is not challenged and she was not cross-examined. Respondent did not give evidence. Applicant, in her evidence said that though she had not met Respondent prior to the funeral of her late *de facto partner*, she with deceased, had visited children several times in the school and had even provided them with essential items for studies. Though there is no dispute as to entitlement of two children both Applicant and Respondent dispute opposite party's claims. Respondent contends that at the time of death *de facto* relationship was not recognized in the Succession Probate and Administration Act, 1970 through an amendment hence the Applicant is not a beneficiary to the funds remitted by FNPF. Counsel for the Applicant contends that her client was in *de facto* relationship with the deceased at the time of death hence she will be the only *'surviving' de facto* partner of deceased hence Applicant and two children of Respondents are the only beneficiaries to the money held in High Court, and previous partners are not recognized as heirs.

FACTS

2. FNPF had remitted a sum of $44,680 being preserved and general entitlement of a deceased member of fund as there was no valid nomination at the time of death on 12.2.2016.

3. A member of FNPF has an option of nominating a person or persons upon death as beneficiary of entire entitlement or part of it. As in most cases, in the absence of valid nomination, deceased members' funds are remitted in terms of Section 57 of FNPF Act, 2011.

4. Once money is received by High Court a beneficiary can make an application for distribution of the funds.

5. In this case money was received to High Court. Both Applicant and Respondent had the respective claims.

6. The Applicant had made an application for release of her entitlement as beneficiary on the basis that she was *'in de facto relationship'* with the deceased at the time of demise. She is claiming as surviving *de facto* partner of the deceased. Respondent had also made an application for the release of funds. She claims that entire sum should be distributed to her two children. Alternatively, she claims as *'de facto'* partner.

7. If there is no dispute as to the beneficiaries of the funds, such applications are dealt with an order of a judge. Since there is a dispute between the parties as to the beneficiaries Applicant was directed to make an application for hearing in open court, and she had done so though a solicitor by way of motion and an affidavit.

8. After several adjournments due to non-representation, both parties were represented by legal practitioners and matter was fixed for hearing. At the hearing only Applicant gave evidence and she was not cross-examined and she had also filed two affidavits in support of her application. Respondent did not give evidence or produced any documents.

ANALYSIS

9. Upon a death of a member of FNPF if there is no nomination funds are remitted to High Court for disposition. Funds are remitted when the nominees are minors, but that has no application to this case as there was no nominee by deceased. In terms of Section 57 (4) of FNPF Act, 2011 Predecessor to FNPF Act, 2011 was FNPF Act 1966 as amended from time to time in Section 35 contained a provision that dealt with deceased members funds when there was no nomination. In term of the said provision money needs to be distributed in terms of law.

10. ***In the Matter of Mohammed Hassan*** [1989] 35 FLR 107, where Fatiaki J (as he then was) held that a sum standing to the credit of a deceased member of the FNPF does not form part of his estate but it is to be distributed as provided by the Succession, Probate and Administration Act,1970.

11. So, money remitted to High Court for disposition does not form part of estate, but it is distributed in terms of Section 6 and 6 A of Succession Probate and Administration Act. Section 57 of FNPF Act, 2011 allows the court to make a just order in the disposition of the money.

12. Section 57 of FNPF Act, 2011 states as follows:

> *(1) In paying an FNPF member's preserved and general entitlements on his or her death, the Board must comply with any current nomination by the member.*
>
> *(2) If a nominee of an FNPF member (not the surviving spouse of the member) is under 18 on the date of determination of the application for withdrawal the Board must pay the amount for that nominee to the High Court.*
>
> *(3) If—(a)a nomination by an FNPF member does not cover all of the amount payable in respect of the member on his or her death; or*
>
> *(b)because of subsection (1), the Board cannot pay some or all of the amount payable in respect of an FNPF member on his or her death;*
>
> *(the amount not covered, or that cannot be paid, is the "unallocated amount"), the Board must pay the unallocated amount into the High Court for disposition according to law.*

*(4) The High Court may, on application, **make such orders as are just** for the disposition of an amount paid in under subsection (1) or (2).*

(5) If—(a)the High Court makes an order in favor of a person under subsection (4); and

(b)the person is under 18;

then, the High Court shall hold the amount to be paid in trust for the benefit of the person.

(6) Subsection (5) shall not apply to a person if, at the time of the death of the deceased FNPF member, the person was the spouse of the deceased FNPF member. [subs (6) subst Decree 77 of 2012 s 15, effective 1 March 2012.

(7) Where no application is made in respect of an amount paid into the High Court under subsection (1) or (2) within one year after it is so paid, the amount is to be repaid to the Board, and credited to the FNPF.

(8) If a person is found to be entitled to some or all of an amount credited to the FNPF under subsection (7), the Board must pay the person the amount to which he or she is entitled, together with an amount equal to the amount that would have been credited under section 48 if the amount credited to the FNPF under subsection (7) had been credited to an account in the FNPF for the person paid.(emphasis added)

13. Act No 6 of 2018 is an amending Act to Succession Probate and Administration Act, 1970. Said amending Act, came in to operation on 16.3.2018 with the assent of the President of Republic of Fiji. It inter alia, amended Sections 2 and 6 of the Succession probate and administration Act, 1970. This amendment introduced *"a person in a de facto relationship"* as a party to the line of succession of a deceased.

14. The first issue is whether said amendment introduced on 16.3.2018 can be applied to the funds of the deceased. The death was on 12.2.2016. No order was made as to the funds remitted to High Court for disposition. Motion seeking distribution was filed on 29.3.2019.

Applicability of amendment to Succession Probate and Administration Act, 1970 introduced on 16.3.2018

15. Maxwell on The Interpretation of Statutes(12th Edi) at pages 216-217 stated

> ***Other statutes, though they may relate to acts or events which are past, are not retrospective in the sense in which the word is used for the purpose of the rule under consideration.*** *The following cases illustrate this point.*
>
> *By section 2 of the Poor Removal Act 1846, "No woman residing in any parish with her husband at the time of his death shall be removed ... From such parish, for twelve calendar months next after his death, if she long continue a widow". In* ***R v Inhabitants*** *of St Mary, Whitechapel*[1]*, it was sought to remove within the twelve period a woman whose husband had died before the Act was passed, on the ground that to make the section apply in such a case was to construe it retrospectively, the right to remove being a vested right which had accrued on the man's death. But the court held otherwise. Lord Denman CJ(at p.127) saying " that the statue is* ***in its direct operation prospective****, as it relates to future removals only ... and that it is not properly called a retrospective statute because a part of the requisites for its action is drawn from time antecedent to its passing."(emphasis added)*

16. So when applying Succession Probate and Administration (Amendment) Act, 2018 to *just disposition* of funds to Applicant, it is used prospective as it is applied to distribution made after amendment. Such application does not affect already decided or vested rights of parties.

17. In Maxwell on The Interpretation of Statutes(12th Edi) at page 217 stated

> *'Finally, on this point there is the case of Re A Solicitor's Clerk*[2]*. The clerk was convicted in 1953 on four charges of larceny but the charges did not relate to money or property of his employer or employer's client, and so an order prohibiting solicitor from employing him could not be made under provisions of Section 16 of the Solicitors Act 1941. The Solicitors (Amendment) Act 1956, s.11 amended section 16 so as to include convictions of larceny irrespective of ownership. The Divisional Court held that the amendment was not a true retrospective provision. "It enables an order to be made," said Lord Goddard CJ(at pp1222,1223), "disqualifying a person from acting as a solicitor's clerk in the future and what happened in the past is the cause or reason for the making of the order, but the order but the order has no retrospective effect ...*

18. Order for 'just disposition' is made upon a determination after amending statute came in to operation. No order was made for disposition of the funds remitted, hence the

[1] (1848) 12 Q.B. 120
[2] [1957] 1 WLR 1219

application of Succession Probate and Administration (Amendment) Act 2018 is prospective.

19. The rule of retrospective construction is not a rigid rule and must vary *secundum materium* (see ***Barber v Pigden*** (1937) 1 All ER 126, ***Carson v Carson*** (1964) 1 All ER 681 at 687).

20. In ***L'Office Cherifien des Posphates v Yamashita-Shinnihon Steamship Co Ltd*** (1994) 1 All ER 20 at p 29 (House of Lords), it was held that basis of application of a statute for an event happened past is no more than simple fairness which ought to be basis or every legal rule. This was applied by House of Lords (Per Hoffmann LJ) in ***Government of The United States of America v. Montgomery and Another*** [2000] 1 All ER 815; [2001] 1 WLR 196 (23rd January, 2001) held,

> *'But, as Lord Mustill said in L'Office Cherifien des Phosphates v Yamashita-Shinnihon Steamship Co Ltd [1994] 1 AC 486, 525 "the basis of the rule is no more than simple fairness". There is no suggestion that the Florida confiscation order was imposed in respect of an offence committed before the power conferred by RICO came into force. It was made under existing powers in respect of property which Larry Barnette had obtained by a fraud upon the United States. In my opinion the enforcement in this country of rights conferred upon the United States by an order made before the DCO came into force is a very different matter from the retrospective imposition of a penalty. Even if there was nothing which the United States government could have done before 1 August 1994 to recover its assets from Mr or Mrs Montgomery by proceedings in this country, **I see no unfairness in it now being allowed to do so.**' (emphasis added)*

21. I cannot see unfairness in the Applicant's claim to funds of deceased member of FNPF as the person who was living in *de facto* partnership with the deceased. They had even jointly visited Respondent's children though the relationship between Respondent and deceased had ended prior to 2011. Respondent and deceased were not living in *de facto* partnership at the time of death.

22. In Secretary *of* State for ***Social Security v Tunicliffe*** [1991] 2 All ER 712, Lord Staughton LJ held,

> *"In my judgment the true principle is that Parliament is, presumably, not to have intended to alter the law applicable to past events and transactions in a manner which is unfair to those concerned in them, unless a contrary intention appears. It is not simply a question of classifying an enactment as retrospective or not retrospective. **Rather it may well be a matter of degree the greater the***

unfairness, the more it is to be expected that Parliament will make it clear if that is intended (emphasis is mine)

23. It is unfair not to recognize Applicant to the funds of the deceased in 2019 when a person in *de facto* relationship was recognized by Succession, Probate and Administration (Amendment) Act, 2018.

24. Respondent's children from *de facto* partnership with deceased, were recognized as beneficiaries of a deceased under Succession Probate and Administration Act, 1970, but the recognition as regard to the person *in de facto relationship* of the deceased, was introduced in 2018. This is to recognize a person in *de facto* relationship with the deceased as a person for succession.

25. Applicant in her evidence said that she had lived with deceased for over 5 years and they were recognized by family members and villagers of the deceased. This is proved as mother of the deceased was also present in court to give evidence supporting her claim but she was not called as Respondent did not cross-examined or dispute her evidence in chief as well as two affidavits in support.

26. Mother of the deceased was the person who had requested the Applicant to make an application for the funds of the deceased member of FNPF which was remitted to this court for '*just disposition*' in terms of Section 57 of FNPF Act, 2011.

27. Applicant said in her evidence that she had also obtained a loan from a commercial bank and had also withdrawn her investment in Unit Trust for the funeral and related expenses, and the evidence was attached to the affidavits in support. This evidence is not contradicted. There is no evidence of Respondent spending for funeral. It was also proved relationship between Respondent and deceased was broken as she had left the deceased.

28. So in the consideration of '*just disposition*' in terms of Section 57 of FNPF Act, 2011, Applicant is entitled to claim as person who was in *de facto* relationship with the deceased and had also single handedly expended her savings for the funeral of deceased.

29. It would be grossly unfair not to recognize Applicant, as person entitled in *just disposition* of funds. The unfairness is more if Applicant is not recognized as a beneficiary to the funds as she had even spent money on funeral and related expenses and they were recognized as a family by members of the family of deceased and villagers at the time of death.

30. Even without amendment she could claim for money as *de facto* partner as the court is required to make an order that is '*just*' in the disposition of funds remitted. For this applicant needed to prove her justification for the claim and she had done so.

31. In this instance the amendment had come in to operation on 16.3.2018. This fortifies her claim as a legislation that address social policy. If the said amendment is not applied to the distribution of funds remitted to court after the said amendment came in to operation it is not a '*just disposition*' of funds.

'*Surviving de facto*' partner or person who was '*in de facto relationship*' in terms of Succession Probate and Administration Act, 1970.

32. Respondent in the alternate claims that she be recognized as '*surviving de facto partner*' along with the Applicant or the money due to *de facto* partner should be equally distributed among all the *de facto* partners of deceased.

33. It is not disputed that deceased had lived with the Respondent for approximately 10 years as *de facto* partners, but it had ended with she deserting deceased for another person. This evidence of Applicant was not challenged.

34. At the outset it should be noted that though both, a *de facto* partner and a legal spouse are recognized as surviving heirs of a deceased in terms of Section 6 of Succession Probate and Administration Act, 1970, there is no recognition of previous *de facto* partners as heirs of deceased. This is logical as previous spouse is also not an heir to a deceased. If *ex-de facto* partner is recognized such a partner is more favoured than a former legal partner.

35. In Section 6(1A) of Succession Probate and Administration Act, 1970 is an exclusive provision for the distribution of property of a deceased among a surviving spouse and *de facto* partner. It had dealt with all the possibilities and, had dealt with surviving spouse and '*a de facto* partner' in Section 6(1A) of Succession Probate and Administration Act, 1970, but not among two or more *de facto* partners.

36. Even if I am wrong, only a 'surviving *de facto*' partner is recognized as an heir in Section 6 of Succession Probate and Administration Act, 1970.

37. Section 6 of Succession Probate and Administration Act, 1970 Reads as follow

> *"(1) Subject to the provisions of Part 2, the administrator on intestacy or, in the case of partial intestacy, the executor or administrator with the will annexed, shall hold the property as to which a person dies intestate on or after the date of commencement of this Act on trust to distribute the same as follows—*

(a) if the intestate leaves a wife or husband or de facto partner but not both a wife or husband and a de facto partner, without issue, the surviving wife or husband or de factopartner shall take the whole of the estate absolutely;

(b) if the intestate leaves both a wife or husband and a de facto partner without issue, the surviving wife or husband and the de facto partner shall take the whole of the estate in accordance with subsection (1A) absolutely;

(c) if the intestate leaves issue and—

(i) a wife or husband or de facto partner but not both a wife or husband and a de facto partner, the surviving wife or husband or de facto partner shall take the prescribed amount and the personal chattels and one-third only of the residuary estate absolutely, or

(ii) both a wife or husband and a de facto partner, the surviving wife or husband and the de facto partner shall take the prescribed amount and the personal chattels and one-third only of the residuary estate in accordance with subsection (1A) absolutely,

and the issue shall take per stirpes and not per capita the remaining two-thirds of the residuary estate absolutely;

(d) if the intestate leaves issue, but no wife or husband or de facto partner, the issue of the intestate shall take per stirpes and not per capita the whole estate of the intestate absolutely;

(e) if the intestate leaves no issue but both parents, then, subject to the interests of a surviving wife or husband or de facto partner, the father and mother of the intestate shall take the residuary estate of the intestate absolutely in equal shares;

(f) if the intestate leaves no issue, but one parent only then, subject to the interests of a surviving wife or husband or de facto partner, the surviving father or mother shall take the residuary estate of the intestate absolutely;

(g) [Repealed]

(h) if the intestate leaves no wife or husband or de facto partner and no issue or parents, then the brothers and sisters of the whole blood, and the children of deceased brothers and sisters of the whole blood, of the intestate shall take the whole estate of the intestate absolutely in equal shares, such children taking per stirpes and not per capita;

(i) if the intestate leaves no wife or husband or de facto partner and no issue or parents or brothers or sisters of the whole blood or children of deceased brothers or sisters of the whole blood then the brothers and sisters of the half blood and children of deceased brothers and sisters of the half blood shall take the whole estate of the intestate absolutely in equal shares, such children taking per stirpes and not per capita.

(j) if the intestate leaves no wife or husband or de facto partner and no issue or parents or brothers or sisters of the whole blood or of the half blood, or children of deceased brothers or sisters of the whole blood or of the half blood, then the grandparents of the intestate shall take the whole estate of the intestate absolutely, and if more than one survives the intestate they shall take absolutely in equal shares, but if there is no grandparent, then the uncles and aunts of the whole blood and children of deceased uncles and aunts of the whole blood, of the intestate, being brothers and sisters of the whole blood of children of deceased brothers and sisters of the whole blood, of a parent of the intestate, shall take the whole estate of the intestate absolutely in equal shares, such children taking per stirpes and not per capita;

(k)if the intestate leaves no wife or husband or de facto partner and no issue or parents or brothers or sisters of the whole blood or of the half blood or children of deceased brothers or sisters of the whole blood or of the half blood and no grandparents or uncles or aunts of the whole blood or children of deceased uncles or aunts of the whole blood of the intestate being brothers and sisters of the whole blood of children of deceased brothers and sisters of the whole blood, of a parent of the intestate, then the uncles and aunts of the half blood and children of deceased uncles and aunts of the half blood of the intestate shall take the whole estate of the intestate absolutely in equal shares, such children taking per stirpes and not per capita;

(l) in default of any person taking an absolute interest under any of the foregoing provisions of this section the residuary estate of the intestate shall belong to the State as bona vacantia, and in lieu of any right to escheat, and the State may, out of the whole or any part of the property devolving on it, provide for dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision.

[subs (1) am Act 12 of 1985 s 4, effective 1 February 1987; Act 11 of 2004 s 3, effective 1 September 2004; Act 6 of 2018 s 3, effective 21 March 2018]

(1A) *Where an intestate leaves both a wife or husband and a* ***de facto partner—***

(a) if the intestate leaves no issue, the whole of the estate; or

(b) if the intestate leaves issue, the prescribed amount and the personal chattels and one-third only of the residuary estate,

shall be distributed—

(i) in accordance with an order of the court;

(ii) in accordance with a written agreement between the surviving wife or husband and the de facto partner; or

(iii) in equal shares between the surviving wife or husband and the de facto partner, provided—

(A) the administrator serves the surviving wife or husband and the de facto partner a notice in writing stating that the administrator shall distribute the property equally between them unless, within 3 months of the notice, at least one of them seeks an order of the court under subparagraph (i) or they enter into an agreement under subparagraph (ii); and

(B) within 3 months of the notice, the surviving wife or husband or de facto partner does not take an action stated in the notice under subparagraph (iii)(A).

[subs (1A) insrt Act 6 of 2018 s 3, effective 21 March 2018]

(2) *For the purposes of subsection (1), any income derived from the property of a deceased person shall be distributed among the persons entitled in distribution to that property in the same respective proportions to which they are entitled to share in the distribution of that property.*

[subs (2) substt Act 12 of 1985 s 4, effective 1 February 1987]

(3) *In this section—*

child

(a) in relation to an intestate, means any child, whether legitimate or illegitimate, of the intestate;

(b) in relation to any person entitled under the provisions of this Act to share in the property of an intestate, means any child legitimate or illegitimate of that person.

issue

includes a child or any other issue whether legitimate or illegitimate, in any generation, of an intestate; and

prescribed amount

emeans $20,000 or any other prescribed amount.

[subs (3) insrt Act 11 of 2004 s 3, effective 1 September 2004]

(4) *For the purposes of this section, an illegitimate relationship between a father and his child shall not be recognized unless there is proof that the paternity of the father has been admitted by or established against the father while both the father and the child were living."*

38. In terms of Interpretation Section 2 of the Succession Probate and Administration Act, 1970 *de facto* partner **means a person in *de facto* relationship**. Since word "means' is used it is an exclusive interpretation. *De facto* relationship is also defined in the same Section as follow;

*"de facto relationship" **means** a relationship between a man and woman who are at least 18 years of age and , although not legally married to each other have lived with each other as spouses on a genuine domestic basis for*

(a) Period of more than 3 years; or

(b) A period of less than 3 years , provided-

(i) The relationship has resulted in the birth of adoption of child, or

(ii) The court , having regard to the circumstances listed in section 154A of the Family Law Act 2003, considers it just to treat the relationship as a de facto relationship"(emphasis added)

39. In terms of Interpretation Section 2 of the Succession Probate and Administration Act, 1970 *de facto* partner means a person who in *de facto* relationship. *De facto* relationship is also defined in the same Section as follow;

"de facto relationship" means a relationship between a man and woman who are at least 18 years of age and , although not legally married to each other have lived with each other as spouses on a genuine domestic basis for

(c) Period of more than 3 years; or

"de facto relationship" means a relationship between a man and woman who are at least 18 years of age and , although not legally married to each other have lived with each other as spouses on a genuine domestic basis for

(c) Period of more than 3 years; or
(d) A period of less than 3 years , provided-

(iii) The relationship has resulted in the birth of adoption of child, or

(iv) The court , having regard to the circumstances listed in section 154A of the Family Law Act 2003, considers it just to treat the relationship as a de facto relationship"

40. Section 154 A of Family Law Act, 2003, states:

"154A In determining whether 2 persons are in a de facto relationship, all the circumstances of the relationship are to be taken into account, including but not limited to the following as may be relevant in a particular case—

(a) the duration of the relationship;

(b) the nature and extent of common residence;

(c) whether or not a sexual relationship exists;

(d) the degree of financial dependence or interdependence and arrangements for financial support between the parties;

(e) the ownership, use and acquisition of property;

(f) the degree of mutual commitment to a shared life;

(g) the care and support of children, if any;

(h) the performance of household duties; and

(i) the reputation and public aspects of the relationship."

41. Respondent had a *de facto* relationship with deceased and it had terminated more than 5 years before demise of her former partner. She had left him for another person and had also obtained DVRO, against him. It is undisputed that her *de facto* partnership with the deceased had ended at least 5 years before the death of her partner and he had also started another *de facto* relationship with the Applicant. So at the time of death Respondent was not the 'surviving *de facto* ' partner of the deceased.

42. At the time of death Respondent was not *'living in de facto'* relationship with deceased, and not living with the deceased. There was no evidence of sexual relationship with Respondent after 2011. The period for proof of *de facto* relationship in terms of Section 2 of Succession Probate and Administration Act, 1970, is 3 years. Respondent was not living in *de facto* relationship 5 years prior to death of deceased. Applicant was in *de facto* relationship at the time of death. So Respondent was *ex-de facto* partner of deceased, and not a recognized in law as an heir of a deceased in the said Act.

43. Respondent cannot be considered as *"surviving de facto"* partner of deceased. The Applicant was the surviving *de facto* partner of deceased. She had also spent money for funeral. Previous *de facto* partners are not heirs as much as ex-husband or wife not an heir, to deceased former husband or wife's property. (see ***Bosworthick v Clegg*** (1929 Times Law Report 938, and ***Ghaidan v Mendoza*** [2004] 3 All ER 411 of 446 para 101).

44. **CONCLUSION**

Applicant who was in *de facto* relationship with the deceased at the time of his demise is entitled for her share as the only surviving *de facto* partner. Section 6 of succession probate and administration Act had not recognized previous *de facto* partners that ended prior to death. It had recognized wife or husband and *de facto* partner but not two or more *de facto* partners. Only a person in *de facto* relationship with the deceased is recognized, and Applicant had established that she was having a *de facto* relationship with the deceased.

45. **CALCULATION**

a. Funds remitted to High Court for distribution		**$44,680.13**
b. i. Applicant's entitlement	$20,000.00	
ii. 1/3 of (24,680.13)	$8,226.71	
	$28,226.71	
c. i. Two children of Respondent are equally entitled for 2/3 of ($24,680)	$16,453.42	
ii. Each child is entitled to $8,226.71		
	$44,680.13	

46. **FINAL ORDERS**

a. Applicant is a beneficiary to funds remitted by FNPF, as the person who was in de facto partnership at the time of death. She is entitled for $28,226.71.

b. Two children of Respondent are entitled remaining sum of $16,453.42 (divided equally among them).

c. No order as to the costs.

Dated at Suva this 28th day of May, 2019.

HIGH COURT OF FIJI SUVA

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Justice Deepthi Amaratunga
High Court, Suva