

**IN THE HIGH COURT FOR ZAMBIA**  
**HOLDEN AT LUSAKA**  
(Civil Jurisdiction)

**2017/HP/0669**

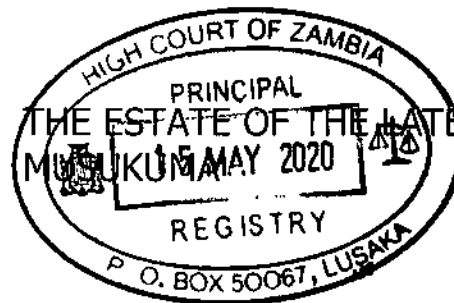
**IN THE MATTER OF:** ORDER 30, RULE 12 OF THE HIGH COURT  
RULES, CHAPTER 27 OF THE LAWS OF  
ZAMBIA

AND

**IN THE MATTER OF:** THE INTESTATE SUCCESSION ACT, CHAPTER  
59 OF THE LAWS OF ZAMBIA AND THE  
NATIONAL PENSION SCHEME ACT Nº 40 OF  
1996

AND

**IN THE MATTER OF:**



THE ESTATE OF THE LATE PATRICIA  
MUSUKUMA

AND

**IN THE MATTER OF:**

THE INTERPRETATION OF SECTION 9(4) OF  
THE NATIONAL PENSION SCHEME ACT Nº 40  
OF 1996 AND SECTION 5 OF THE INTESTATE  
SUCCESSION ACT Nº 59 OF THE LAWS OF  
ZAMBIA

BETWEEN:

**PAXINA CHRISTINE MUSUKUMA**  
(suing on her own behalf and as Administratrix  
of the estate of the late PATRICIA MUSUKUMA)

1<sup>st</sup> Applicant

**EMMAH SHABANYAMA MUSUKUMA**  
(suing in her capacity as parent and beneficiary of  
the estate of the late PATRICIA MUSUKUMA)

2<sup>nd</sup> Applicant

**TONGO MUSUKUMA**3<sup>rd</sup> Applicant

(suing in his capacity as parent and beneficiary of the estate of the late PATRICIA MUSUKUMA)

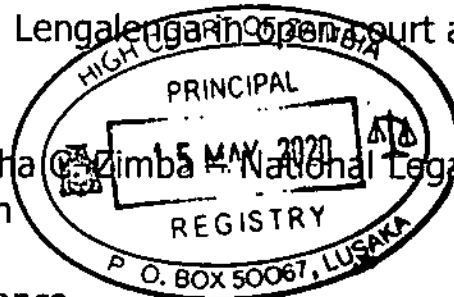
AND

**NATIONAL PENSION SCHEME AUTHORITY**Respondent

Coram: Hon Lady Justice F. M. Lengaleng in open court at Lusaka.

For the Applicants: Mrs. Natasha Chimpeni National Legal Aid Clinic  
For Women

For the Respondent: No appearance




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## J U D G M E N T

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Cases referred to:

1. **EDITH TSHABALALA v THE ATTORNEY GENERAL (1999) ZR 139**
2. **MILFORD MAAMBO & 2 ORS v THE PEOPLE – SCZ Selected Judgment N<sup>o</sup> 31 of 2017**
3. **FAUSTIN KABWE v JUSTICE ERNEST SAKALA & 2 ORS – SCZ Judgment N<sup>o</sup> 25 of 2012**
4. **THE ATTORNEY GENERAL & ANOR v AKASHAMBATWA MBIKUSITA LEWANIKA & ORS – SCZ Judgment N<sup>o</sup> 2 of 1994**
5. **RAFIU RABIU v S (1981) NCLR 293**
6. **ANDERSON KAMBELA MAZOKA & ORS v LEVY PATRICK MWANAWASA & ORS (2005) ZR 138**

Legislation referred to:

- 1. THE NATIONAL PENSION SCHEME ACT Nº 40 OF 1996.**
- 2. THE INTESTATE SUCCESSION ACT – Chapter 59 of the Laws of Zambia.**
- 3. THE WILLS AND ADMINISTRATION OF TESTATE ESTATES ACT – Chapter 60 of the Laws of Zambia.**
- 4. THE NATIONAL PENSION SCHEME (BENEFITS & ELIGIBILITY) REGULATIONS STATUTORY INSTRUMENT Nº 71 OF 2000**

Other works and materials referred to:

- 1. THE HALSBURY'S LAWS OF ENGLAND, 4<sup>th</sup> Edition, Volume 44**

This action by the Applicants herein was brought by way of originating summons and it is directed at the Respondent, in which the Applicants seek the following reliefs:

- (i) Interpretation of the provisions of section 9(4) of the National Pension Scheme Act Nº 40 of 1996 as read with section 5 of the Intestate Succession Act, Chapter 59 of the Laws of Zambia.**
- (ii) An order that twenty percent (20%) of the benefits contributed to the Respondent herein by the late Patricia Musukuma due to the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants in their capacity as beneficiaries of the said estate be paid.**

- (iii) An order that the 1<sup>st</sup> Applicant be considered as a beneficiary of the estate of the late Patricia Musukuma in her capacity as a biological child and paid commensurate to her age and educational needs.**
- (iv) Any other relief the court may deem fit.**
- (v) Costs.**

The Originating Summons is supported by an affidavit sworn by Paxina Christine Musukuma, the 1<sup>st</sup> Applicant herein and biological daughter and duly appointed administratrix of the estate of the late Patricia Musukuma who died intestate on 15<sup>th</sup> August, 2015 at the University Teaching Hospital (UTH) after succumbing to jaundice. A copy of the letters of administration (probate) was exhibited as **"PCM1."**

According to the 1<sup>st</sup> Applicant's deposition, the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants are the biological parents of the late Patricia Musukuma who is survived by a spouse Kelvin Chiwama and three children, namely Namukale Chiwama, Musapenda Chiwama and Lemmy Musukuma, who were aged eleven, seventeen and twenty-one years respectively at the time this matter was heard.

She deposed further that during the late Patricia Musukuma's lifetime, she contributed her pensionable earnings to the Respondent, National Pension Scheme Authority which by virtue of her untimely death

qualifies her estate to claim for all her benefits. The said deponent attested that in her capacity as the administratrix of the estate of the late Patricia Musukuma, she had been pursuing the Respondent herein for the twenty percent (20%) benefits due to the deceased's parents but her efforts have been in vain. A copy of a letter of demand dated 5<sup>th</sup> December, 2016 from the Applicants' advocates to the Director General of the Respondent Authority was exhibited as **"PCM2."**

The 1<sup>st</sup> Applicant deposed that the Respondent has declined to recognise the Applicants as beneficiaries of the late Patricia Musukuma's estate on the basis that they have attained the age of majority. She further deposed that hence the Applicants' demand for an interpretation of section 9(4) of the National Pension Scheme Authority Act, No 40 of 1996 as read with section 5 of the Intestate Succession Act, Chapter 59 of the Laws of Zambia on whether the Respondent is justified in declining to recognise the Applicants as beneficiaries of the deceased's estate.

An affidavit in opposition to the originating summons and affidavit in support thereof was filed into court on behalf of the Respondent. The said affidavit was sworn by one Kombe Temba, the Benefits Manager in the Respondent's employ. He deposed therein that up to the time of her death, the late Patricia Musukuma was a member of the Respondent National Pension Scheme Authority, who made contributions to the Respondent for the period April, 2003 to August, 2015.

He deposed further that as part of the pension administration procedures the Respondent requires all members of the Respondent to register their beneficiaries, that is, the member's spouse and child(ren) for purposes of administering what is termed as survivor's benefits in the event of that member's death. He attested that upon a member's death, the Respondent duly pays out the survivor's benefits to the member's beneficiaries in accordance with the National Pension Scheme Act, No 40 of 1996, using the prescribed computation as read with the National Pension Scheme (Benefits and Eligibility) Regulations of 2000.

The said Benefits Manager exhibited as "**KT1**" a copy of the member's master record showing the deceased member Patricia Musukuma's registered beneficiaries and he deposed that in light of the foregoing, it is only in cases where the deceased member has no beneficiaries that the Respondent pays out the survivor's benefits to persons who would be entitled in accordance with the Wills and Administration of Testate Estates and Intestate Succession Acts or a duly appointed administrator for the estate, whatever the case may be.

He further deposed that in this case, the Respondent would have no basis to include the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants as beneficiaries unless and until it is established that the deceased has no beneficiaries.

The said deponent averred that the 1<sup>st</sup> Applicant in her affidavit and exhibits has not shown cause why or how the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants are

entitled to twenty percent (20%) of the deceased's pension fund benefit. He further stated that the beneficiaries are also required to notify the Respondent of a member's death and duly complete a claim form to enable the Respondent to process the survivor's benefit.

The said Kombe Temba further stated that the Respondent has neither failed, refused nor neglected to pay the Applicants and that it is the Applicants who have failed to present a claim form to enable the Respondent to process the claims and pay the deceased member's beneficiaries. He concluded by stating that the Respondent is ready and willing to pay the deceased's beneficiaries as soon as a claim is made for the same and provided the necessary qualifications for payment are met.

In the affidavit in reply to the affidavit in opposition filed into court and sworn by the 1<sup>st</sup> Applicant, she deposed therein that the deceased's youngest daughter, Namukale Chiwama, the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants are not captured as beneficiaries. She further deposed that she was reliably informed that the Respondent's electronic system rejects the registration of parents as beneficiaries where there is a spouse and children hence exhibit "KT1," a document generated from the same system that does not reflect their names as the Respondent's agents advise members on registration of beneficiaries not to include parents as beneficiaries.

The 1<sup>st</sup> Applicant stated that contrary to the deposition in the affidavit in opposition, the Respondent does not distribute pension benefits in

accordance with provisions of the National Pension Scheme Act and that the regulation is inconsistent with the principle Act and that members are seldom advised of this position. She further deposed that the inclusion of the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants as beneficiaries is supported by provisions of the Act as read with the Intestate Succession Act which unconditionally recognises parents as beneficiaries of an estate irrespective of the existence of other priority dependants.

On the issue of notification of a member's death, she responded that she duly notified the Respondent of her mother's death and made a total of about six visits to the Respondent's Lumumba Road Branch and that on her last visit she saw Mr. Lungu and Mr. Mwape, employees of the Respondent who advised her to fill in the claim form after which the Respondent would proceed to pay the benefits to those considered as beneficiaries. She further stated that she, however, halted the submission in order for the family to first resolve who the beneficiaries are.

With reference to "**PCM2**" the letter from their advocates to the Respondent wherein they requested for payment of twenty percent (20%) to the parents, she deposed that to-date they have not received a feedback from the Respondent.

Skeleton arguments were respectively filed into court by the parties and they have to be taken into consideration.



According to the Applicants' skeleton arguments filed on 31<sup>st</sup> August, 2017, the application herein is anchored on the provisions of section 9(4) of the National Pension Scheme Act, No 40 of 1996 (NAPSA Act) which states that:

**"(4) On the death of a member the Authority shall pay the pension benefits due to the member in accordance with the provisions of the Intestate Succession Act and Wills and Administration of Testate Estate Act."**

It was submitted by the Applicants' Counsel, Mrs. N. C. Zimba that in this case, the deceased died intestate and she referred the Court to section 5(1) of the Intestate Succession Act, Chapter 59 of the Laws of Zambia which provides that:

**"5(1) Subject to sections *eight, nine, ten* and *eleven* the estate of an intestate shall be distributed as follows:**

- (a) twenty percent of the estate shall devolve upon the surviving spouse; except that where more than one widow survives the intestate, twenty percent of the estate shall be distributed among them proportional to the duration of their respective marriages to the deceased, and other factors such as the widow's contribution to the deceased property may be taken into account when justice so requires;**

- (b) **fifty percent of the estate shall devolve upon the children in such proportions as are commensurate with a child's age or educational needs or both;**
- (c) **twenty percent of the estate shall devolve upon the parents of the deceased;**
- (d) **ten percent of the estate shall devolve upon the dependants, in equal shares."**

She also relied on section 30 of the National Pension Scheme Act which states that:

**"30 The following persons shall be regarded as family dependants for the purpose of section twenty-nine:**

**Family dependants**

- (a) **a surviving spouse of the deceased member;**
- (b) **a child of the deceased member; or**
- (c) **such other persons as may be entitled to benefit under the Intestate Succession Act or Wills and Administration of Testate Estates Act or as nominated by the member."**

Applicants' Counsel argued that the use of "or" in section 30 is not disjunctive but conjunctive, and makes no suggestion of a category of beneficiaries being considered only in the absence of others. To support this argument she relied on the case of **EDITH TSHABALALA v THE ATTORNEY GENERAL**<sup>1</sup> where the court observed that:

**"the fundamental rule of interpretation was the intention expressed by Parliament."**

Mrs. Zimba submitted that other principles of interpretation should only be resorted to where there is ambiguity or where a literal interpretation will lead to absurdity. She relied on the case of **MILFORD MAAMBO & 2 ORS v THE PEOPLE**<sup>2</sup> where the Constitutional Court of Zambia followed the Supreme Court's decision in the case of **FAUSTIN KABWE v JUSTICE ERNEST SAKALA & 2 ORS**<sup>3</sup> where the Court stated that:

**"Whenever there is no ambiguity in the meaning of a statute or indeed the Constitution itself, the primary principle of interpretation is that the meaning of the text should be derived from the plain meaning of the language used. In other words, the natural and ordinary meaning of the words should convey the true intent of the originators of the text. Other principles of interpretation should only be called in aid where there is ambiguity or where such literal interpretation will lead to absurdity."**

She further relied on the case of **THE ATTORNEY GENERAL & ANOR v AKASHAMBATWA MBIKUSITA LEWANIKA & ORS**<sup>4</sup> where the Supreme Court stated *inter alia* that:

**"in the instant case, we have studied the judgment of the court below and we find it sound and correct by applying a literal interpretation."**

Mrs. Zimba also relied on the Nigerian case of **RAFIU RABIU v S**<sup>5</sup> (cited in the MAAMBO case) where Bello, JSC reiterated the same position when he observed that:

**"where the words of a section are clear and unambiguous, they must be given their ordinary meaning unless this would lead to absurdity....."**

In this case, she submitted that there is no ambiguity in the manner in which both provisions of the National Pension Scheme Act and the Intestate Succession Act earlier alluded to are phrased and therefore their ordinary meaning ought to be adopted.

She also referred to the preamble to the Intestate Succession Act which states that:

**"An Act to provide a uniform intestate succession law that will be applicable throughout the country; to make adequate financial and other provisions for the surviving spouse, children, dependants and other relatives of an intestate to provide for the administration of the estates of persons dying not having made a will; and to provide for matters connected with or incidental to the foregoing."**

She submitted further that in view of the foregoing preamble which states that the Intestate Succession Act provides uniformity and applies to all cases where one dies intestate, the drafters of the National Pension Scheme Act took cognizance of the vital role it plays by imputation. She

submitted that it is the Applicants' contention that to decide contrary to its provisions would result in inconsistency as well as different standards of justice in succession law in Zambia.

To support this argument, Applicants' Counsel relied on section 3 of the Intestate Succession Act which in its interpretation clause describes a **"priority dependant"** as:

**"a wife, husband, child or parent."**

Mrs. Zimba submitted that in light of the provisions of section 5(1)(b) of the Intestate Succession Act, it is the Applicants' contention that the 1<sup>st</sup> Applicant is entitled to a share arising from the pension benefits save that due regard ought to be given to her age and educational needs in relation to her younger siblings who have more needs and consequently need a larger share.

She emphasized the fact that the National Pension Scheme Act speaks to the Intestate Succession Act which is unambiguous in terms of the manner of distribution of an estate. She submitted further that holistic interpretation ought not to be restricted to the National Pension Scheme Act and Regulations only but by imputation to the Intestate Succession Act as drafters of the Act clearly wished to make provision for parents.

Applicants' Counsel further submitted that the Respondent has placed emphasis on the provisions of the National Pension Scheme (Benefits and

Eligibility) Regulations of 2000 (**"the Regulations"**) in their interpretation of the provisions of the Act. She, however, submitted that the said Regulations are subordinate legislation and to explain the nature of subordinate legislation, she relied on the **HALSBURY'S LAWS OF ENGLAND**, 4<sup>th</sup> Edition, Volume 44, at page 926 and paragraph 1499 where the learned authors state that:

**"Subordinate legislation made by a person or body other than the Sovereign in Parliament by virtue of powers conferred either by Act or by legislation which is itself made under statutory powers. It is referred to as delegated legislation in the former case, and sub-delegated legislation in the latter. Subordinate legislation is so called because it is inferior to and may always be revoked or amended by an Act."**

She submitted that in light of the foregoing, they urged the court to interpret the provisions of the National Pension Scheme Act as read with the Intestate Succession Act.

In the Respondent's skeleton arguments filed into court on 28<sup>th</sup> August, 2017, Legal Counsel, Mrs. Shiyunga submitted that they are fully conversant with the provisions of section 9(4) of the National Pension Scheme Act and section 5 of the Intestate Succession Act, and she proceeded to reproduce the said provisions that had earlier been reproduced by Applicants' Counsel. She submitted further that they had noted that in their originating summons, Counsel chose to consider section

9(4) in isolation from the whole Act when section 9(4) has more of a general application, and it appears under the general heading of "**Benefits Under Scheme,**" which merely outlines the type of benefits that the scheme can pay out. She submitted that, however, there are other provisions in the Act that are specific with regards to survivor's benefits which are the crux of this matter. To support her argument, Legal Counsel relied on the distinction made between general and particular enactments made by the learned authors of HALSBURY'S LAWS OF ENGLAND, 4<sup>th</sup> Edition, Volume 44 at page 723 and paragraph 1235 that:

**"The distinction between a general enactment (dealing with a matter in broad terms) and a particular enactment (dealing with a matter in detail) frequently arises between a provision in a public general Act and one dealing with the same subject matter in a local Act or a personal Act."**

She drew this court's attention to section 29 of the National Pension Scheme Act which provides grounds upon which survivor's benefits shall be paid to a member of the family or a dependant upon death of a member. The said provision is reproduced hereunder:

**"29. Subject to this Act, a survivor's benefits shall be paid to a member of the family or a dependant if at the time of death, the member –**

- (a) was in receipt of a retirement pension or an invalidity pension;**
- (b) would have been entitled to an invalidity pension for permanent invalidity at the time of death; or**

- (c) **had reached pensionable age and was entitled to a retirement benefit and had made a claim to such benefit."**

She submitted that, therefore, the criteria provided in section 29 determines what form of benefit the survivors will be entitled to, that is, whether it will be a survivor's pension or survivor's lump sum.

Legal Counsel further submitted that section 30 is categorical as to who shall be paid a survivor's benefit and it makes it mandatory to pay a survivor's benefit to a surviving spouse and child(ren) and that the choice of the use of the word "**or**" seems to suggest that in the absence of a spouse or child(ren) any such other persons as would be entitled under the Intestate Succession Act or Wills and Administration of Testate Estates Act, ("**the Wills Act**") Chapter 60 of the Laws of Zambia can be considered as dependants for consideration of survivor's benefits.

I have considered the affidavits and skeleton arguments filed herein by respective Counsel. Therefrom, it is apparent that this Court has been called upon to interpret the provisions of section 9(4), 29 and 30 of the National Pension Scheme Act, 1996 as read with section 5 of the Intestate Succession Act Cap 59 of the Laws of Zambia.

In interpreting legislative provisions, courts are duty bound to give the words being construed their ordinary grammatical meaning. The Supreme Court gave this guidance in the case of **ANDERSON KAMBELA**



**MAZOKA & ORS v LEVY PATRICK MWANAWASA & ORS**<sup>6</sup> where it held that:

**“It is trite law that the primary rule of interpretation is that words should be given their ordinary grammatical and natural meaning. It is only if there is ambiguity in the natural meaning of the words and the intention cannot be ascertained from the words used by the legislature, that recourse can be had to the other principles of interpretation.”**

As can be seen, section 9(4) of the National Pension Scheme Act prescribes how the Authority pays the pension benefits due to a member who has died. The provision is couched in mandatory terms through the use of the word **“shall.”** Therefore, once a contributing member dies, the Respondent is obliged to pay out his or her pension benefits in terms of the law, in this case, section 9(4) of the Act refers to the provisions of the Intestate Succession Act and the Wills and Administration of Testate Estate Act.

Section 29 of the Act provides for payment of the survivor’s benefits to a member of the family or a dependant while section 30 defines **‘family dependants’** as being the surviving spouse, child of the deceased or such other person as may be entitled to benefit under the Intestate Succession Act and the Wills and Administration of Testate Estates Act.

The Appellants contend that the use of the word **“or”** in section 30 is conjunctive and as such inclusive of dependants while the Respondents

argue that it is disjunctive, and only brings in other relatives in the absence of a surviving spouse and children.

The National Pension Scheme Act, 1996 does not define who a **"dependant"** is, but refers to the Intestate Succession Act and the Wills and Administration of Testate Estate Act. **Section 3 of the Intestate Succession Act** defines **"dependant"** in the following terms:

**"dependant" in relation to a deceased person means a person who was maintained by that deceased person immediately prior to his death and who was –**

- (a) a person living with that deceased person; or**
- (b) a minor whose education was being provided for by that deceased person; and who is incapable, either wholly or in part of maintaining himself;"**

Therefore, based on the foregoing provision, it is apparent that the National Pension Scheme Act was more focused on the surviving spouse and children, and only considered what may be termed as **'ordinary dependants'** who include the parents, in the absence of the spouse and children.

However, section 3 of the Intestate Succession Act goes further to distinguish between a **"dependant"** and a **"priority dependant."** Consequently, **"priority dependants"** are defined as wife, husband, child or parent of the deceased. These are the same persons who ought to be given priority in the distribution of the estate of a person who has died intestate in terms of section 5(1) of the Intestate Succession Act.

Therefore, "**dependants**" are only to be considered after priority dependants have been dealt with.

In this regard, to consider the use of the word "**or**" under section 29 of the National Pension Scheme Act as being disjunctive, would lead to an absurdity as it would run riot to the letter and spirit of the Intestate Succession Act, as outlined in the preamble, whose objects are *inter alia*;

**"... to provide a uniform intestate succession law that will be applicable throughout the country; to make adequate financial and other provisions for the surviving spouse, children, dependants and other relatives of an intestate; ..."**

The facts as disclosed in the affidavit of Paxina Christine Musukuma, indicate that the deceased died intestate as there is no mention of a will. This is confirmed by the grant of letters of administration in favour of the 1<sup>st</sup> Applicant dated 15<sup>th</sup> August, 2015. Therefore, the deceased having died intestate, the applicable law is the Intestate Succession Act.

The evidence before the Court is that the deceased, as a contributing member of the Respondent died intestate. Consequently, upon her demise, her benefits formed part of her estate as they are assets accruing to her after her death. It is common cause that the deceased was survived by a husband, Kelvin Chiwama; four children namely Paxina Christine Musukuma, Lemmy Musukuma, Musapenda Chiwama, and Namukale Chiwama; and both biological parents being Emma Shabanyama

Musukuma and Tongo Musukuma. These are the priority dependants who should benefit in terms of **section 5(1) of the Intestate Succession Act.**

The Respondent deposed in the affidavit in opposition that the deceased indicated who her beneficiaries are on the Member Master Record marked '**KT1.**' The Member Master Record excludes the Applicants even when they fall under the category of priority dependants who are entitled to benefit from the estate in terms of section 5 of the Intestate Succession Act.

It was further deposed that upon the death of the member, the Respondent then pays out the survivor's benefits to the member's beneficiaries in accordance with the National Pension Scheme Act and the National Pension Scheme (Benefits and Eligibility) Regulations, 2000.

In her affidavit in reply, the 1<sup>st</sup> Applicant deposed that she is reliably informed that the electronic system at the National Pension Scheme Authority rejects the registration of parents as beneficiaries where there is a spouse and children. She stated that this is the reason the Member Master Card, having been generated from the same system, does not reflect the names of the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants.

**Regulation 11(3)(4) and (5) of The National Pension Scheme (Benefits and Eligibility) Regulations, Statutory Instrument N<sup>o</sup> 71**

**of 2000**, deals with the computations of the survivors' pension and lump sum payments. A close perusal of the Sub-Regulations shows that they only provide for surviving spouses and children. There is no provision for surviving parents. This confirms the averments of the 1<sup>st</sup> Applicant that the system at the Respondent rejects the registration of parents as beneficiaries. Further, as noted above, these provisions are in conflict with the letter and spirit of the Intestate Succession Act in as far as it seeks to provide a uniform intestate succession law.

Therefore, while the Regulations made under the National Pension Scheme Act appear to exclude parents, the principle legislation includes them in **Section 30(c) of the Act** which was earlier cited by Counsel and may be considered.

Therefore, the aforesaid can be construed to include surviving parents in terms of section 3 and 5(1) of the Intestate Succession Act.

Consequently, I find that section 9(4) of the National Pension Scheme Act, 1996 as read with section 5(1) of the Intestate Succession Act requires the Respondent to pay out the survivors pension and lump sum benefits of the deceased to the priority dependants in terms of section 3 and 5(1) of the Intestate Succession Act.

For the avoidance of doubt, priority dependants include the surviving spouse being the husband, children and parents of the deceased contributing member.

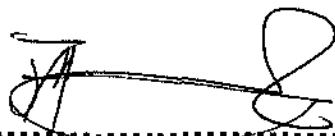
Therefore, the 1<sup>st</sup> Applicant being a child of the deceased, and the 2<sup>nd</sup> and 3<sup>rd</sup> Applicants being parents of the deceased, I find that they are all beneficiaries of the deceased contributing member who are entitled to benefit in the estate of the deceased.

Consequently, the Respondent is hereby directed to consider their claims in accordance with the provisions of the law and particularly the cited statutory provisions and make the payments accordingly.

All in all, the application succeeds with costs to the Applicants. In default of agreement, same to be taxed.

Leave to appeal to the Court of Appeal within the specified period of thirty (30) days is granted.

DATED this .....<sup>15<sup>th</sup></sup> day of May, 2020 at Lusaka.



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**F. M. Lengalenga**  
**JUDGE**