

## Chapter-4

### **Settlement of Claims in respect of Missing Persons up to Threshold limit and above threshold limit.**

#### **4.1. Legal Position**

The settlement of claims in respect of missing persons would be governed by the provisions of Section 107/108 of the Indian Evidence Act, 1872. Section 107 deals with presumption of continuance and section 108 deals with presumption of death. As per the provisions of Section 108 of the said Act, presumption of death can be raised only after a lapse of seven years from the date of his/her being reported missing. As such, nominee/legal heirs have to raise an express presumption of death of the subscriber under Section 107/108 of the Indian Evidence Act before a competent court. If the court presumes that he/she is dead, then the claim in respect of a missing person can be settled as is done for any other deceased accounts.

#### **4.2. Settlement of claims within threshold limits (Upto Rs.2 lacs)**

Settlement of claims where a person is missing for the last -7- years and more where declaration/certificate from court is not produced

- In cases where **the credit balance in the account of a missing person is not large**, the claimants may find it expensive and cumbersome to obtain order *from the court*. In order to avoid hardship and cost involved to the claimants in approaching the court for settling small claims in respect of missing persons, the RBI advised banks to put a threshold limit for settlement of claims without insisting for submission of declaration/certificate from the court. *The bank has fixed threshold limit of Rs.2 lacs for this purpose.*

The Bank (in such cases) shall settle the claims on production of the following documents:

1. FIR with the Police
2. Final / Non traceable Report issued by police authority stating that the persons is not traceable.
3. Letter of indemnity along with two sureties acceptable to the bank for the value of the amount released. (as per annexure-hyperlink PDF needs to be opened)

In settling the claims on the basis of FIR and Final Report the following points should be taken care of.

1. FIR should have been lodged with the police and the police should have put up the Final Report stating that the person is non-traceable that the individual has not been traced after all efforts have been made by the police.
2. FIR should have been filed only by those persons who would naturally have heard of him;

3. FIR should be lodged with the concerned police station at a place where the person was found to be missing or in his permanent residence or at a place he was residing for the last one year;
4. The date of disappearance of the person will be reckoned from the date of First Information Report with the police.

Apart from above, the following are also required to be considered:

- The credit balance in the account including accrued interest up to the date of submission of application for settlement of claim submitted to the branch to be considered for arriving at threshold limit of Rs.2 lacs. However, interest up to the date of settlement of claim is to be given to the claimant. In case, the balance amount together with interest on the date of submission of application comes more than Rs.2 lacs then the claimant has to produce declaration/certificate from the competent court for settlement of the claim.

**I. Settlement of Claims in respect of Missing person (Above threshold limits at present Rs.2 lacs)**

- A.** Settlement of claims where a person is missing for the last 7 years & more and where order from competent court is produced

In a situation where an individual has been missing for 7 years or more and if the nominee / legal heirs/ produce the declaration of the Court that such an individual is presumed to be dead (civil death) then, such person's account may be treated as of the account of a deceased person. In such cases, when a declaration as aforesaid is furnished, the same will tantamount to the death certificate and it would be in order for the Bank to proceed on such declaration to settle the claims in respect of such missing person's accounts.

The Credit balance in the deposit account up to any extent may be settled on the basis of submission of claim by the nominee/legal heirs/ enclosing whether order or Certificate/declaration, Of the competent court and on the basis of identification of the nominee / legal heirs/ claimants the credit balance together with interest, if any, may be paid by cheque or to their account maintained with us or through NEFT/RTGS if account maintained with the other bank.

The branch official should visit the residential premises of the account holder and make discreet enquiries about him/her and report to be kept on branch **record**. The matter should be reported to next higher authority.