



Superannuation Complaints Tribunal - Recent Case

Date : February 15, 2013

A recent case in the Superannuation Complaints Tribunal emphasises the discretionary powers of a trustee in distributing a deceased member's superannuation death benefit.

The two adult sons and adult daughter of the deceased brought a claim contesting the distribution of their father's death benefit. The trustee had distributed 40% to the deceased's girlfriend, 30% to the adult daughter and 10% each to the deceased's adult sons.

The adult children wanted the entire benefit to be paid to the daughter in accordance with their deceased father's preferred nomination.

Although there were questions surrounding the nature of relationship between the deceased and the girlfriend, the Tribunal looked toward the dependence within the relationship which it confirmed was a separate and sufficient ground for a potential beneficiary to be a recipient of a death benefit. In considering the complaint, the Tribunal found that the daughter and girlfriend were both partially financially dependent on the deceased.

After reviewing the evidence, the Tribunal decided that the death benefit be split equally between the girlfriend and the daughter, despite the fact that this was contrary to the deceased member's wishes.

Our estate planning lawyers can provide legal advice on what you can do to ensure that your superannuation entitlements are distributed in accordance with your wishes.

To find out more about superannuation, death benefit nominations, bringing a claim against a trustee or to update or create your Will, call the estate planning experts at Matthews Folbigg Lawyers Parramatta on 9635 7966.