SATTREX CAPITAL

ESTATE PLANNING & WEALTH PROTECTION SERIES • PART 1

What Are Good Assets? — Transferability & Section 39 Nomination

A Complete Legal Guide on Asset Qualities, Beneficial Nominees, and Estate Friction Reduction

When cash is needed urgently, an asset that fails to convert or transfer easily is not a good asset from a personal finance perspective. In estate planning, an asset must possess **three essential qualities** to be classified as a "Good Asset":

THE THREE PILLARS OF A GOOD ASSET

1. TRANSFERABILITY	2. TRANSPARENCY	3. GRANULARITY (DIVISIBILITY)
Can ownership be passed seamlessly to heirs without court delays or heavy costs?	Is the valuation clear, legal title undisputed, and terms unambiguous?	Can the asset be split easily among multiple heirs without destroying its value?

1. THE PROBLEM OF IMMOVABLE PROPERTY VS. LIFE INSURANCE TRANSFERABILITY

Real estate and large physical assets often suffer from severe title disputes, sealing by authorities, family rifts, and inordinate legal delays. A person works hard for decades to build wealth, but after their passing, the rightful heir is often deprived or forced into long litigation.

In contrast, the law recognizes **Life Insurance Policies** as a distinct, highly transferable asset class governed by three specific legal mechanisms:

THREE LEGAL WAYS TO TRANSFER LIFE INSURANCE ASSETS:
1. **Section 39 of Insurance Act 1938:** Transfer via Nomination (Speedy Claim Settlement).
2. **Section 38 of Insurance Act 1938:** Transfer via Absolute or Conditional Assignment.
3. **Section 6 of MWP Act 1874:** Transfer via Immediate Statutory Trust Creation.

2. DEEP DIVE: SECTION 39 NOMINATION (INSURANCE ACT, 1938)

Under Section 39(1), a policyholder who is also the life assured may nominate one or more persons to receive policy proceeds upon their death during the policy term:

> *"39. (1) The holder of a policy of life insurance on his own life, may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death..."*

Key Rules & Mechanics of Nomination

- **Policyholder Must Be Life Assured:** Nomination can only be made by a policyholder who is also the life assured. For example, a father taking a policy in the name of his minor child (where the child is the life assured) cannot make a nomination on that policy. When the minor turns 18 and the policy automatically vests, the child can then nominate.
- **Nomination of Minors & Appointees:** A minor child can be appointed as a nominee, provided an **Appointee** is simultaneously designated to receive the claim money and provide a valid legal discharge during the nominee's

minority. Upon the nominee attaining 18 years of age, the appointee's status cancels automatically without requiring notice to the insurer.

- **Multiple Nominees:** Policyholders can specify multiple nominees and assign specific percentage shares to each.
- **Policy Loans & Assignments:** Taking a loan from the insurance company against the policy does NOT nullify the existing nomination. Upon loan repayment, the policy reassigns to the owner, and no fresh nomination is required.

3. THE 2015 INSURANCE AMENDMENT: THE "BENEFICIAL NOMINEE" CONCEPT

Before 2015, a nominee was legally considered merely an **authorized collector / agent** to receive funds from the insurance company, while actual ownership rested with legal heirs under personal succession laws. This often led to claims being contested by other family members before payout.

To eliminate this friction, the **2015 Amendment added Section 39(7)**, creating the concept of **Beneficial Nominees**:

> *"39. (7) Subject to the other provisions of this section, where the holder of a policy of life insurance on his own life nominates his parents, or his spouse, or his children, or any of them, the nominee or nominees shall be beneficially entitled to the amount payable by the insurer..."*

Parameter	Standard Nominee (Pre-2015 / Non-Family)	Beneficial Nominee (Post-2015 Amendment - Sec 39(7))
Eligible Nominees	Friends, distant relatives, third parties.	**Parents, Spouse, Children (or combination).**
Legal Status	Collector / Agent to receive money for legal heirs.	**BENEFICIAL OWNER.** Entitled to the claim money absolutely.
Legal Heir Claims	Legal heirs can stake a claim prior to settlement.	**OVERRIDDEN.** Beneficial nominees hold absolute legal right over the money.

4. IMPORTANT DISTINCTION: NOMINEE RIGHTS VS. LEGAL HEIR CLAIMS

> **Timing of Legal Claims:** The main advantage of nomination is speedy claim settlement—the nominee only needs to prove their identity. However, if a legal heir stakes a claim *before* the insurance company settles the claim to the nominee, the company may settle in favor of the legal heir upon proof. BUT if the claim has already been settled to the nominee, the insurer receives a valid discharge, and legal heirs cannot hold the insurance company liable!

ESTATE ADVISORY CHECKLIST FOR POLICYHOLDERS:

Ensure Periodical Title & Nomination Review

1. **Nominate Immediate Family:** Always nominate parents, spouse, or children to leverage **Section 39(7) Beneficial Nominee status**.
2. **Get Written Acknowledgements:** Always obtain written confirmation from the insurer whenever a nomination or change of nomination form is submitted.
3. **Work with Expert Advisors:** A professional agent ensures periodic review of policy title and nominations so that claim proceeds reach the intended recipient without legal friction.

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