

## THE “IL”-LEGAL WIFE

In the previous article, we discussed the requisites that needed to be met before an SSS beneficiary could claim a member’s death benefits. We saw that it wasn’t enough that one was the legal wife, but that she needed to be financially *dependent* on her husband as well. Today we’ll be looking at the GSIS law to see if the same holds true for its members’ survivorship benefits.

Let’s revisit our primetime scenario with a few added tweaks.

Jericho and Angel are happily married. Jericho is a civil service government employee who is up to date on his GSIS dues. Angel on the other hand is a fashion model who is gainfully employed. Unknown to Jericho, Angel had fallen for Phil who she met online. When Jericho finally found out, he confronted her. Angel wanted to be with Phil, but she was unsure whether she should leave Jericho.

If Jericho died, would Angel be able to claim his GSIS survivorship benefits as his legal wife? Will Angel’s modeling career affect her eligibility to be Jericho’s beneficiary?

A Supreme Court ruling will assist us in our discussion, followed by a recent 2010 GSIS resolution.

Ernesto is married to Marilou and has been in the government service for more than two decades. Marilou though left Ernesto to have an affair with Delfin (and then Rogelio afterwards). Seventeen years later, Ernesto died.

Shortly thereafter, Marilou suddenly reappears and files an application for Ernesto’s survivorship benefits.

The GSIS denied Marilou’s application which was affirmed by the Supreme Court. In the decision, it was explained that eventhough Marilou was the legal wife, the simple fact that she had separated from Ernesto to cohabit with other men for seventeen years disqualified her from being a “*dependent*” under the GSIS law.<sup>1</sup>

In fact, the implementing rules of the GSIS law explicitly forbids spouses who have entered into adulterous relationships from claiming benefits.

Clearly then, if Angel ran away with Phil to England, she would be disqualified despite being the legal wife of Jericho.

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<sup>1</sup> Similarly, the GSIS law adopts a hierarchy of primary beneficiaries (legal spouse and children) and secondary beneficiaries (parents). And in their absence or disqualification, the survivorship benefits goes to the legal heirs.

But what if Angel decided to stay with Jericho and continue her modeling career in the Philippines? Would she be able to claim his survivorship benefits later upon his death?

In 2010, the GSIS issued a resolution that modified what it meant to be a “*dependent*” beneficiary under the GSIS law. While the prohibition against adulterous relationships remained, the need to have actually been financially dependent on the deceased GSIS member was eliminated. As it stands, a beneficiary may now apply for survivorship benefits despite being gainfully employed.

Therefore, Angel need not prove to the GSIS that she has no other means of income (unlike with the SSS). It suffices that she is The Legal Wife.

*(Based on A.M. No. 10019-Ret., February 22, 2001, and <http://www.gsis.gov.ph/news.php?id=186>)*