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money. payment of



A debt is composed of two elements: (a) the legal obligation or liability to pay; and (b) The quantum of that liability, fixed in term of money. Payment of a sum money or the passing of value to a person does not create a debt due by him unless a liability to repay in terms of money is also imposed on him; and a liability to pay does not become a debt unless ascertained in terms of money. A debt may arise from contract. The liability to pay such a debt cannot rest upon a person not party to the contract.

Where a debt is a decretal debt, as in the case of decree for damages for breach of contract or for tort, the liability to pay it rests on the judgment-debtor alone. Where a person fails to pay his contractual debt the lender may obtain a decree against the borrower and in this manner the contractual debt may be converted into a decretal debt. The law provides that where by reason of the death of the borrower or the judgment-debtor, the debt cannot be realised from him personally, it may be realised from his legal representatives, which term includes his heirs, successors, executors or assigns etc., but apart from the provisions of Section 53 of the Code of Civil Procedure does not include surviving coparceners to the extent of the property of the deceased in their hands.

In other words after the death of a person a debt due by him can only be realised from the property left by him.