No:20(1)98/D(Tax/Services),
Bharat Sarkar/Government of India,
Raksha Mantralaya/Ministry of Defence,

NEW DELHI-110011
22nd September, 1998

To

The Chief of the Army Staff, New Delhi.
The Chief of the Naval Staff, New Delhi.
The Chief of the Air Staff, New Delhi.

Sub: Special Benefits in cases of Death and Disability in Service - payment of Ex-gratia lump sum compensation to families of the Defence Service personnel who die in harness - Recommendations of the Fifth Central Pay Commission.

Sir,

I am directed to refer to Government of India, Ministry of Personnel, Public Grievances & Pension, Department of Pension & Pensioners' Welfare O.M. No.45/55/97-P&PW(C) dated 11.9.98 and state that the President is pleased to decide that families of Defence Service personnel who die in harness in the performance of their bona fide official duties shall be paid the following ex gratia lump sum compensation:

| (a) | Death occurring due to accidents in the course of performance of duties | Rs. 5.00 lakh |
| (b) | Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc. | Rs. 5.00 lakh |
| (c) | Death occurring during (i) enemy action in international war or border skirmishes and (ii) action against militants, terrorists, extremists, etc. | Rs. 7.50 lakh |

The graded structure of ex gratia lump sum compensation takes into account the hardships and risks involved in certain assignments, the intensity and magnitude of the tragedy and deprivation that families of government servants experience on the demise of the breadwinner in different circumstances, the expectations of the employer from the employees to function in extreme circumstances, etc. The compensation is intended to provide an additional insurance and security to employees who are required to function under trying circumstances and are exposed to different kinds of risks in the performance of their duties.

3. Powers were delegated in the Ministry of Finance O.M.No.19(18)- FY(A)/66 dated February 26, 1966 to the appointing authorities to sanction awards under the relevant Extraordinary Pension Rules in those cases in which the proposed pension or gratuity is held to be clearly admissible under the rules. However, any awards proposed to be granted on ex gratia basis were to continue to be referred to the Ministry of Finance as usual. In partial modification of these orders, in so far as they relate to ex gratia awards, the admissibility of and entitlement to the ex gratia lump sum compensation in the circumstances specified in these orders may be decided in each individual case by the Ministry of Defence in consultation with Financial Adviser (Defence Services).
DEFINITION OF DUTY

(Govt. of India, Ministry of Defence letter No. (1)/81/Pen-Cdtd 22 Nov 83)

A person subject to the disciplinary code of the Armed Forces is on "duty":

1. When performing an official task or a task, failure to do, which would constitute an offence, triable under the disciplinary code applicable to him.

2. When moving from one place of duty to another place of duty, irrespective of the mode or movement.

3. During the period of participation in recreation and unit activities organized or permitted by service Authorities and during the period of travelling in a body or singly by a prescribed or organised route. (See Notes 1 & 2 below.)

4. When proceeding from his duty station to his leave station or returning to duty from his leave station, provided entitled to travel at public expense i.e. on railway warrant, on concessional voucher, on cash TA (irrespective of whether railway warrant/cash TA is admitted for the whole journey or for a portion only), in government transport or when road mileage is paid/payable for the journey.

5. When journeying by reasonable route from one's quarter to and back from the appointed place of duty, under organized arrangements or by private conveyance when a person is entitled to use of service transport but that transport is not available.

6. An accident which occurs when a is not strictly "on duty" as defined may also be attributable to service, provided that it involved risk which was definitely enhanced in kind or degree by the nature, conditions, obligations or incidence of his service and that the same was not a risk common to human existence in modern conditions in India. Thus for instance, where a person is killed or injured by another party by reason of belonging to the Armed Forces. He shall be deemed 'on duty' at the relevant time. This benefit will be given more liberally to the claimant in cases occurring on active service as defined in the Army/Navy/Air Force Act.

Note 1:

(a) Personnel of the Armed Forces participating in local/national/international sports tournaments as member of service teams or mountaineering expeditions/gliding organised by service authorities, with the approval of Service HQs, will be deemed to be 'on duty' for purpose of these rules.

Cont-2-
Personnel of the Armed Forces participating in the above named sports/tournaments in privately organised mountaineering expeditions or indulging in gliding as a hobby in their individual capacity, will not be deemed to be 'on duty' for purpose of these rules, even through prior permission of the competent service authorities may have been obtained by them.

Injuries sustained by personnel of the Armed Forces in impromptu games and sports outside parade hours, which are organized by, or with the approval of, the local service authority, and death or disability arising from such injuries, will continue to be regarded as having occurred while 'on duty' for purpose of these rules.

Note 2:

The personnel of the Armed Forces deputed for training at courses conducted by the Himalayan Mountaineering Institute, Darjeeling shall be treated on par with personnel attending authorized professional courses or exercises for the Defence Service for the purpose of the grant of disability family pensions on account of disability/death sustained during the courses.
4. The conditions and guidelines to be observed governing the payment of ex gratia lump sum compensation in terms of these orders are indicated in the annexure.

5. The orders shall apply to all cases of death in harness occurring on or after August 1, 1997. In so far as cases of death, which occurred prior to August 1, 1997, are concerned, these shall be regulated and finalised in terms of the orders and instructions in force prior to the issue of these orders.


7. These orders are issued with the concurrence of Defence(Finance) vide their U.O. No.1869/Addl FA(7)/98 dated 11.9.98.

Yours faithfully,
Sd/-

(B. BRAHMA)
Director (AG)

Copy to:
1. CGDA, New Delhi
2. DGADS, New Delhi
3. CDA(O) Pune
4. CCDA(P) Allahabad
5. CDA(N), Bombay
6. CDA(AF) Dehradun
7. CDA(AF)-New Delhi.
8. Dy CDA(AF), New Delhi.
9. CDA(SC), Pune
10. CDA, Bangalore
11. CDA, Madras
12. CDA Lucknow.
13. CDA, Jabalpur
14. CDA(WC), Chandigarh
15. CDA(NC), Jammu.
16. CDA, Patna
17. CDA, Guwahati.
18. Dir of Accts (Postal), APS Accts, Nagpur.
Condition governing the payment of ex-gratia lumpsum compensation and guidelines to be observed.

The main condition to be satisfied for the payment of the ex-gratia lumpsum compensation in the specified circumstances is that the death of the employee concerned should have occurred in the actual performance of bonafide official duties. In other words, a casual connection should be established between the occurrence of death and government service.

2. Powers having been delegated to the Administrative Ministries to sanction ex-gratia payments under these orders, it shall be their responsibility as well as that of the Financial Advisers to satisfy themselves that the death of the service personnel to be compensated by the payment of the lumpsum ex-gratia to the family in fact occurred in the actual performance of bonafide official duties and to establish its causal connection and nexus with government service. This could be done on the basis of medical and other documents relating to the case.

3. Even if a Defence personnel had died in such circumstances that a medical report could not be secured, the nexus and causal connection with government service would need to be adequately established in determining the entitlement to the ex gratia lumpsum payment. In deciding this issue, all evidence (both direct and circumstantial) shall be taken into account and the benefit of reasonable doubt given to the claimant, the benefit of reasonable doubt will be extended more liberally in field service cases, as provided in the guidelines for conceding attributability of disablement or death to Government servant forming part of the Liberalised Pension Award Scheme, Pension Regulations for Defence Services.

4. In cases of accidents to commercial aircraft resulting in the death of passengers, compensation is payable to the next of kin by the national or private airline concerned in terms of international conventions. The ex-gratia lumpsum compensation in terms of these orders will, therefore, not be admissible in addition in the event of death due to accidents while travelling on duty by commercial aircraft and shall be restricted only to those cases where death occurs in an accident while travelling on duty by service aircraft. The payment of ex gratia in these
cases will be without prejudice to the bond required to be executed by the Service personnel. If any indemnifying the Government against any claims on account of death while travelling by service aircraft.

5. Railways also pay compensation to the next of kin of passengers killed in train accidents. Therefore, the ex gratia compensation admissible in terms of clause (a) of Para 1 of these orders shall be reduced by the compensation, if any, received by the next of kin of service personnel killed in train accidents while travelling on duty.

6. Ex gratia compensation under clause (b) of Para 1 will be admissible to service personnel killed while employed in aid of the civil administration in quelling agitation's protest demonstrations, riots etc; regardless of whether such agitations, demonstrations, etc are resorted to by members of the public, political parties etc; or by other public servants, including police personnel. In addition, in the context of a perceptible increase in violence-related incidents over the years. Service personnel on duty could become unwitting victims of bomb blasts in public places or vehicles, indiscriminate shooting incidents in public, etc, often resorted to by terrorists, anti-social elements, etc. The compensation under clause (b) will also, therefore, be admissible in cases of death in such incidents, provided the service personnel concerned were actually on duty at the relevant time.

Cases of death resulting from acts of violence or assault by terrorists, anti-social elements, etc. against a Service personnel with the intention of marring or preventing him from performing his duties; or because of any action done or attempted to be done by such Service personnel in the lawful discharge of his duties; or because of his official position will also be covered under clause (b).

Ex gratia compensation under clause (c) of Para 1 will generally be restricted only to those cases where the death of the Service personnel is directly caused by actual field operations. In addition, families of Service personnel killed after being kidnapped by militants, terrorists, extremists, etc, because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.

9. Few illustrative examples of cases to be covered under the different clauses of Para 1 are contained in the Appendix for the guidance of sanctioning authorities. In case of any doubts in regard to the applicability of the of the ex gratia compensation scheme, such cases will be referred to the Department of Pension & Pensioners' Welfare for appropriate decision in consultation with the Department of Expenditure.
10. The ex gratia compensation in the circumstances specified in these orders shall be admissible in addition to such other benefits as may be admissible under the liberalised pensionary award scheme, as the case may be. This will also be mutually exclusive of such other benefits as may be admissible under the Groups Insurance Scheme of the respective defence service fund etc., and will be payable in addition to such benefits.

11. In determining the admissibility of the ex-gratia compensation payable from Central Government funds, ex-gratia payments, if any, made to families of the deceased Service personnel from State funds by the state Government concerned shall not be taken into account and shall be excluded.

12. In certain cases, relief is also provided to families of deceased Service Personnel from sundry Government sources, such as the Prime Minister's Relief Fund, Chief Minister's Relief Fund etc. In such cases, it should be ensured that the aggregate of the relief/ex-gratia compensation paid from different sources does not exceed Rs.10 lakhs in each individual case.

13. In view of the facts that the ex gratia compensation in terms of these orders is payable to the families of the deceased Service Personnel default or contributory negligence, if any, on the part of the Service Personnel concerned shall not be taken into account in sanctioning the compensation.

14. Any related issue not specifically covered in these orders shall be decided in terms of the relevant provisions in this regard contained in the liberalised pensionary award scheme as amended from time to time and the instructions issued thereunder.

15. Where any doubt arises as to the interpretation of the provisions of these orders, it shall be referred to the Department of Pension & Pensioners' Welfare for decision.
ILLUSTRATIVE EXAMPLES OF CASES COVERED UNDER
LETTER NO. 20(1)/98/D/PAY/SERVICES DATED 22\textsuperscript{ND}
SEPTEMBER 1998.

(Refer Sl. No. 9 of Guidelines annexed to this letter)

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Clause (a) : Death Attributable to accidents while on duty
1. Death, as a result of an accident while travelling in a public, private or
official vehicle or otherwise, of a Group ‘D’ employee, Dispatch
Rider, Messenger, Postman, Notice Server etc, deputed to distribute
dak, notices, etc., or of personnel on field duties.

2. Death occurring due to an accident while travelling on bonafide
official duties in a service aircraft.

3. Accidents during test flights of aircraft and non/schedules flight of
chartered aircraft resulting in death of service personnel travelling on
duty in public interest in such flights.

4. Death in train accidents, of personnel undertaking official journeys
on duty.

5. Accidents to ships, river steamers, etc. resulting in death of Service
personnel undertaking journeys on duty by these modes of travel.

6. Death, as a result of accidents, of Service personnel while proceeding
on raids against anti-social elements, etc.

7. Death due to contact with live electric/power lines, of personnel
deployed on flood/cyclone relief activities.

8. Death, due to electrocution, of Service personnel engaged in
rectification of defects in generation and distribution of electricity.

9. Accidents while engaged in rectification of defects in machinery and
equipment.

10. Death due to accidental explosion of boilers, storage tanks of
inflammable materials, chemicals, etc.
11. Death due to fire accidents while on duty.

12. Death of Fire Fighting Staff engaged in fire-fighting operations.

Clause (b): Death Attributable to acts of violence by terrorists, anti-social elements, etc.

1. Death resulting from acts of violence or assault by terrorists, smugglers, Dacoits, anti-social elements etc. against an individual Service Personnel.

(a) with the intention of deterring or preventing him from performing his duties; or

(b) because of any act done or attempted to be done or attempted to be done in the lawful discharge of his duties, or

(c) because of his official position.

2. Service personnel killed in the course of performance of their duties as a result of violence or attack by armed hostile, extremists, terrorists, anti-social elements, etc.

3. Service Personnel on duty, killed in incident of terrorists violence in Jammu & Kashmir, the North Eastern Region, Punjab, etc. other than in actual operations and encounters.

4. Death, due to stone-throwing, use of weapons and other violent acts by demonstrators, anti-social elements, etc., Service Personnel while employed in aid of the civil administration in quelling agitations, protest demonstrations, riots, etc.

5. Death of Service Personnel while proceeding on raids against anti-social elements, etc., attributable to attacks by the parties so raided, including anti-social elements.

6. Death, while on duty, as unwitting victims of bomb blast in public places or vehicles, indiscriminate shooting incidents in public, etc., often resorted to by terrorists, anti-social elements, etc.
Clause (c) : Death occurring during wars or border skirmishes and action against militants, terrorists and extremists.

The ex-gratia compensation under clause (c) of Para 1 will be restricted only to those cases where Service Personnel are killed in actual field operations: A higher rate of compensation has been prescribed in these cases having regard to the magnitude of the hardships and risks involved in field operations, including combing operations against terrorists, militants, etc. This will generally be applicable only to the service personnel deployed along the borders, Line of Control, etc, as well as those engaged in combing terrorism. The condition of being actually involved in field operations will, therefore, have to be satisfied before the higher ex-gratia compensation of Rs.7.50 lakhs is sanctioned.

As indicated in para 1 of the letter, compensation under this clause will be admissible to families of Service personnel killed :-

(i) In action in international wars;

(ii) while fighting in war-like situations or border skirmishes with any country;

(iii) in action against armed hostile, militants, terrorists and extremists;

(iv) during laying or clearance of mines, including those laid by enemies, militants, terrorists, etc., as well as in the course of mine-sweeping operations;

(v) as a result of exploding mines en route to an operational area;

(vi) during battle inoculation as part of prescribed training exercises involving the use of live ammunition;

In addition, families of service personnel killed after being kidnapped by militants, terrorists, extremists, etc. because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.

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