

## **Rule 56 - Fatal Accident Benefit Occupational & Non-Occupational**

### **1. Qualification for Benefit**

- a. The member must have 12 months' continuous membership at date of accident and not more than six weeks in arrears of contributions.
- b. Retired members do not qualify for benefit.

#### **CEC discretion**

- (i) Benefit may be paid where death was the result of an Industrial Disease and occurred within twelve months of attaining 65 years of age or within twelve months after date of retirement. (This restriction would not apply in the case of Asbestosis).
  - (ii) Where it is clearly the case that the Industrial Disease was contracted before the member joined the union, benefit will not normally be paid.
- c. The claim must be made on the prescribed form and lodged along with a death certificate with the Regional Secretary within six weeks of death. The inquest deposition is required before the claim can be submitted to the CEC for consideration.

#### **CEC discretion**

- (i) Where a death certificate has not been issued but evidence of death is clear, benefit can be paid. Interim death certificate, police report, post mortem report, newspaper articles can be considered.
- (ii) Where the six weeks has been exceeded but there are extenuating circumstances, benefit can be paid.

### **2. Dependency**

- a. Benefit will normally be paid to the husband, wife, child, parent or life partner including same sex partner who was dependent on the member.
  - (i) Partners – casual relationships will not qualify.
  - (ii) Divorce – parties cease to be husband and wife. An award of maintenance will not qualify as dependency.
  - (iii) Separation – parties remain husband and wife. An adequate award of maintenance will qualify as dependency.
  - (iv) Children – no proof of dependency is required for children under 16 years of age. Proof of dependency is required for children over 16 years of age. Illegitimate and legally adopted children qualify as dependents.

#### **CEC discretion**

- (i) Other relatives may be considered as dependents where the CEC is satisfied that there is a degree of dependency or where the claimant is old or in poor health.

### **3. Financial Dependency**

- a. The rule requires the claimant to have been wholly or partially dependent on the member for the ordinary necessities of life according to their circumstances.
- b. The practical test of financial dependency is whether the claimant would have suffered an appreciable diminution in their standard of living, had any payment made by the deceased member discontinued. Copies of bills or bank statements are submitted to substantiate dependency.

#### **CEC discretion**

- (i) Where the claimant is the widow/widower of the deceased no dependency test need apply.
- (ii) Where the deceased was single, aged under 25 and living at home, dependency can be assumed. Where the deceased member was over 25, clear dependency must be established.
- (iii) Dependency may be considered where the deceased did not live at the claimant's home but contributed to the household expenses either directly or indirectly.

### **4. Apportionment of Benefit**

- a. Evidence of being appointed Administrator or Executor of the deceased's estate is required.
- b. The CEC determines the person(s) to whom the payment is to be made and can decide to apportion payment.
- c. Benefit is usually granted to children but with permission for the approved custodian to administer.
- d. In the case of an occupational claim, a Trust Deed will be established and for a non-occupational claim, benefit will be paid to the approved custodian against an indemnity to the union.

### **5. Occupational Fatal Accident**

- a. Benefit is payable where the member sustains an accident following their occupation at their usual place of work and which proves fatal within 12 months of the date of the accident. Written confirmation from the employer is required.
- b. Where the cause of death is stated as an Industrial Disease, the following evidence will be considered in determining if payment is to be made:
  - (i) The cause stated on the death certificate
  - (ii) References made in depositions as to the likely cause of death
  - (iii) Any available independent medical opinion
  - (iv) Advice from union solicitors on the likely success of any current case being conducted on behalf of the late member's family

- c. Blood Alcohol Level - where the member's blood alcohol exceeded the legal limit, the non-occupational benefit will be paid. Written confirmation of blood level alcohol is required e.g. police report, post mortem, hospital report.

## **6. Non-Occupational Fatal Accident**

- a. Benefit is payable where the member sustains an accident other than following their occupation which proves fatal within 12 months of the date of the accident.
- b. Suicide – benefit is normally paid as there is often a lack of evidence as to the state of the deceased's mind and the reluctance of inquest juries to bring in verdicts of suicide.
- c. The following will qualify for benefit provided there has been no evidence of the presence of alcohol or a criminal act on the part of the member. Written confirmation of blood level alcohol is required e.g. police report, post mortem, hospital report.
  - (i) Driving a vehicle
  - (ii) Falling down stairs
  - (iii) Drowning
  - (iv) Murder/Manslaughter
  - (v) Fire

### **CEC Discretion**

- (i) Driving - a claim will not qualify where the member was driving a vehicle and the blood alcohol level materially exceeded the statutory limit 80mg/100ml. Marginal cases up to 20% i.e. 96mg/100ml may be considered.
- d. Claims where death was as a result of natural causes are expressly excluded by Rule.

### **CEC Discretion**

- (i) Pre-medical condition - the CEC may consider a claim where there existed a pre-medical condition and there was doubt whether this was the significant factor in the cause of death.
- e. Benefit will not be paid for fatal accidents whilst serving with armed forces, as a result of hostile acts to others, disease, natural causes, own criminal activity or intentional activity in civil commotion or riot.

**F&GPC February 11, 2013**

<b>CEC Guidelines</b>	<b>Occupational</b>	<b>Non Occ</b>
Basic Award (to include benefit for spouse/partner/parent)	£4,000	£1,100
<b>Additional Award based on length of membership</b>		
over 5 years	£1,000	£ 500
over 10 years	£1,500	£ 750
over 20 years	£2,000	£1,000
<b>Additional Award for Dependents</b>		
for each dependent child up to 16 years of age	£1,000	£ 500
for each dependent child over 16 years of age	£ 500	£ 250
for each other dependent (see below *)	£ 500	£ 250
<b>Maximum benefit payable</b>	<b>£10,000</b>	<b>£5,000</b>

(Basic award is based on amount payable prior to rule change)

\*The current guidelines include the following in relation to other dependents:  
*'other relatives may be considered as dependents where the CEC is satisfied that there is a degree of dependency or where the claimant is old or in poor health'*

## **Rule 56 Fatal accident benefit**

- 1 In line with clause 3 below, we will normally pay fatal accident benefit to the husband, wife, child, parent or partner (including same-sex partners) of a member who has died and who was a full financial member. The relative claiming benefit must have completely or partly depended on the member for the ordinary necessities of life according to their circumstances.

We will pay fatal accident benefit as follows.

- For a full financial member who:
  - dies in an accident (within 12 months of the accident);
  - was working at their usual place of employment; and
  - has been a continuous full member for 12 months; we will pay up to £10000.
- For a full financial member who has an accident (other than while working at their usual place of employment) from which they die within 12 months, we will pay up to £5000.

We will only pay one type of fatal accident benefit for any one financial member. The Central Executive Council will have the power to decide which of the above people we will make the payments to. If more than one person is entitled to the payment, the Central Executive Council has the final decision about how the payment should be divided.

We will only pay the benefit if, at the time of the accident and when making a claim, the member had been paying full grade-1 or grade-2 contributions (unless they were paying contributions at a different rate under rule 47.7) and did not owe more than six weeks' payments.

- 2 The member's relative must make a claim for fatal accident benefit by sending the correct form, and the death certificate, to the regional secretary within six weeks of the date the member died. The member must have been a continuous member for at least one year on the date they had the accident.
- 3 The Central Executive Council will have the power to make decisions based on all the evidence, and to consider whether to pay fatal accident benefit. The Central Executive Council can take any steps necessary to find out whether the member is entitled to benefit in line with the conditions set out in these rules. However, we will not pay benefit for members who die as a result of an accident they had:
  - a while they are serving with any armed forces or any irregular force (other than while training as a volunteer or reservist with a regular armed force), or;
  - b as the result of:
    - an injury they have deliberately given themselves;
    - their aggressive behaviour towards someone else (not including genuine self-defence);
    - a disease or natural causes;

- carrying out an illegal act; or
  - deliberately taking part in a riot.
- 4 The Central Executive Council will have the final decision about whether to pay benefit.