
CHAPTER 12

Benefits payable on death

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CHAPTER 12

Benefits payable on death

Part 1: Industrial death benefit: death of employed earner from relevant injury or disease

1 In cases of coronary death

- i A man was hurt and badly shaken as the result of an accident, which admittedly happened out of and in the course of his employment, while riding his motor-bicycle. He fell a distance of some 4 feet and the machine fell partly on top of him. He resumed his employment 3 weeks later, but 10 days thereafter he fell ill and died. It was held that industrial death benefit was payable to his widow on the ground that he had died as the result of an industrial accident. See paragraph 4 and see also paragraphs 5-6 as to the desirability of a disclosure of evidence by each party to an appeal before the hearing. R(I) 6/51
- ii A colliery worker who was working in the haulage road of a mine was struck on his chest by a wire haulage rope. He walked home, but took 2 hours to do a journey, which normally occupied half an hour, and thereafter was kept in bed for 5 weeks, at the end of which time he was admitted to a mental hospital, where he died 7 months later. A *post-mortem* examination was carried out and at an inquest the cause of the deceased's death was certified to be chronic congestive heart failure associated with arteriosclerosis and chronic myocardial degeneration accelerated by injury and shock caused by being struck by a haulage rope while at work. It was held that the deceased's death was the result of an accident arising out of and in the course of his employment. R(I) 14/51
- iii The death of an engine driver from coronary thrombosis almost immediately after a severe fright when he had suddenly to stop the train he was driving was held to have been the result of injury by accident. R(I) 42/53
- iv A railway guard ran after a runaway truck in order to apply the brake, and 9½ hours later he died, the cause of death being certified to be coronary thrombosis and hypertension. It was held that the deceased's death resulted from injury by accident in that, whilst running to apply the brake on the runaway truck, he sustained a physiological change for the worse which hastened his death. R(I) 13/54
- v A man employed as a furnace man died after charging a furnace which, though it was his normal work, was very hot and strenuous work. A *post-mortem* examination revealed that his death was due to sudden heart failure determined by cardiac ischaemia and degeneration of the heart muscle. It was held that his death was the result of injury by accident in that a physiological injury or change causing death had resulted from the strain to which the deceased had been exposed in the spell of work which immediately preceded his death. R(I) 42/54

2 In cases of cancer

- R(I) 26/57 i A coal-miner injured his left shoulder by catching it against a bent steel bar while at work and after 7 weeks became incapable of work. Two months thereafter there was X-ray evidence of a bone lesion in the humerus and within 6 months there were widespread metastases from a highly malignant sarcoma of bone. A little over a year after the injury he died as a result of secondary deposits and toxæmia from a primary sarcoma of the humerus. It was held that death was the result of the injury he had suffered during the course of his employment. See as to the effect of a blow in such a case paragraphs 20-26.

3 In cases of pneumoconiosis

- R(I) 9/67 i A man who had been employed as a coal-miner was totally disabled by pneumoconiosis and was described by his doctor as 'a respiratory cripple'. After being unable to do any work of any description for some 4 years he died, the immediate cause of his death being lung cancer, but it was held that the failure to diagnose the cancer earlier was due to its being masked by pneumoconiosis; that had it been possible to operate upon the deceased for his lung cancer it was probable that he would have survived appreciably longer; that, although death by making treatment of a fatal condition impossible; and that the deceased's death was a result of pneumoconiosis. See paragraphs 15-16 and compare R(I) 54/52 and R(I) 26/56, *infra* 12.2.6 vi.

4 In cases of prescribed diseases other than pneumoconiosis

- CI 142/49 i A man who was being treated for dermatitis, after attending hospital as an out-patient, on his return complained that he had been stripped and felt perished with cold. About a week later he developed pneumonia, as a result of which he died. On the death certificate the cause of death was certified to be (a) syncopal attack; (b)

myocarditis; (c) effects of pneumonia. It was, however, certified by the deceased's doctor that "he was very much run down in health and became an easy victim to his terminal illness". It was held that the dermatitis was a contributory cause to his pneumonia and that death had resulted from the PD from which he was suffering *ante mortem*.

ii A labourer at a building site on which rats had been seen on various occasions, and had also been seen near the house where he lived, was held to have died as a result of PD No. 21. See also R(I) 92/53. R(I) 20/52

5 In cases of alleged suicide

i A deputy at a colliery sustained a serious injury to his left eye during a shot-firing operation, and approximately five months later committed suicide. It was held that the continuing shock effect of the accident, combined with the wearing effect of pain and irritation from the injury to his eye, produced derangement and that industrial death benefit was payable to the man's widow. See para. 4 where reference is made to the general principle to be applied in cases of suicide when it is being determined whether or not industrial death benefit should be payable. CI 172/50

ii There is a legal presumption against suicide and the burden of rebutting it by convincing evidence rests upon the person who suggests suicide as an explanation of the death. A ship's engineer was found drowned at sea and it was held by the majority of a tribunal of Commissioners that, since there was no evidence of foul play and no suggestion that the deceased had been 'larking', there was nothing to justify the inference that the accident did not arise out of his employment. See also C.I. 113/50. CSI 23/50 (T)

iii A coal-miner who had been in receipt of injury benefit by reason of dermatitis died some four months after the date of the development of the disease, the cause of his death being suicide by coal-gas poisoning, the balance of his mind being disturbed. The disease from which he was suffering gave rise to a condition of depressive psychosis and it was held that death was the result of the PD. See para. 13 *et seq.* R(I) 2/57

iv A mineworker sustained an injury to the left side of his face and head, as a result of which he became incapable of work. He resumed light work some three months later, but was again certified for work, and three weeks thereafter he took a large quantity of aspirins and half a bottle of whisky, as a result of which he died. It was held that he was suffering from a state of melancholia caused by the accident and that it could be inferred that his actions in taking his life were involuntary. See paras. 14 *et seq.* R(I) 36/60

6 Other cases

i A charge-hand on a steel plant climbed up the steps of a crane in a shed which contained carbon monoxide gas. He was taken ill and died half an hour later of heart disease. It was held that his death was the result of an accident arising out of and in the course of his employment. CI 39/49

Part 2: Industrial death benefit: death of employed earner not from relevant injury or disease

1 In cases of coronary death

- i A railway guard fell of the step of a goods train while it was moving slowly and died almost immediately from heart disease. The evidence showed that the heart disease was in such an advanced condition that death might have occurred even while he was asleep, and that any slight exertion or strain would be highly dangerous. It was held that the heart attack preceded the fall and that the deceased's death was not a result of an accident but arose from natural causes unaffected in any significant degree by his employment. R(I) 20/51
- ii A van roundsman was injured in a road accident and some 5 months later died as the result of coronary thrombosis. There was medical evidence that if accidents ever did cause coronary thrombosis they would do so within 24 hours or thereabouts and that if the thrombosis occurred more than 24 hours after the accident it would be a very remote possibility that they were connected. It was accepted that there was not likely to have been any connection between the accident which befell the deceased and his death and that death was not, therefore, the result of the accident. R(I) 43/53
- iii A loader operator in a coal-mine was engaged for 2½ hours on unusually heavy work lifting girders and 43 hours later, having completed his current shift and that of the following day on his normal light work, died from heart failure due to advanced atheroma of the coronary arteries. It was held that the strain of lifting the girders did not cause, or hasten, the deceased's death. R(I) 99/53
- iv A cotton spinner injured 2 toes of his left foot in an industrial accident and later gangrene set in, with the result that his leg had to be amputated. Nineteen months after the accident he died, the cause of his death being certified to be (a) myocardial failure; (b) arteriosclerosis. It was held that the deceased's death did not result from the industrial injury. See paragraphs 4-5. R(I) 62/54
- v A man was employed in loading cathodes of copper, each weighing 56 to 59 pounds, in the hold of a ship. It was the sort of work which he was accustomed, but after he had been doing it without a break for some 3 hours he died, the cause of his death being subsequently certified to be coronary occlusion by atheroma. It was held that the effort involved in the work the deceased had been doing would not, in the case of a man accustomed to it, have any effect in increasing the demand for the blood supply beyond the level at which the arteries could maintain it. The deceased might have died at any time and the fact that he died whilst working was a mere coincidence. See also R(I) 16/56 and R(I) 44/60. R(I) 34/55
- vi A miner who had been suffering from pains in his chest during the previous 12 months collapsed and died at the coal-face, the cause of his death being certified to be coronary thrombosis. It was held that the medical evidence showed that the thrombus started to form 2 days before death, which was sudden and was due to the complete blocking of the main right coronary artery. Further, it was held that the work done on the day the thrombus started to form, being the deceased's normal and usual work, paid no part in causing its formation and, since the blocking of the whole of one coronary artery was incompatible with life, the work done after the thrombus had started to form was unlikely to have appreciably accelerated death. See also R(I) 32/56. R(I) 29/56
- vii Within one hour of cranking the engine of his tractor driver developed a coronary thrombosis and it was accepted that it, and the incapacity caused thereby, were the result of injury caused by accident. Some 4 months later the man was admitted to R(I) 49/56

hospital with a second thrombosis and a month afterwards died as a result of a third thrombosis. It was held on the medical evidence that death did not result from the injury suffered by the accident since one attack of coronary thrombosis does not predispose the second or subsequent attack, so that it was impossible to hold that the effort at work 5 months earlier was the cause of the third and fatal thrombosis.

- R(I) 25/59 viii An engineering assistant who was a sedentary worker was sent by his employers on a civil defence training course which involved markedly greater exertion than that to which he was accustomed. He completed the course, although while attending it he complained of chest pain, and then returned to his normal duties. A fortnight later he had a violent chest pain when in bed and was gravely ill, and after being admitted to hospital died of a similar attack 14 days later. It was held that death did not result from an industrial accident and that the chest pain he suffered while on the civil defence training course was due to an attack of angina pectoris which did not cause any personal injury; nor did it have any bearing on the development of the violent pain which occurred later and which was due to an acute coronary occlusion. See paragraphs 11 et seq. as to the differences between an attack of angina and an attack or coronary occlusion with respect to symptoms, clinical signs, pathology and relationship to physical effort.

2 In cases of cancer

- R(I) 100/53 i A shoe finisher was sweeping up the factory where he was employed and while doing so pushed the full ash-box with his leg. Four days later he became incapable of work by reason of thrombosed veins in his right leg, and again 5 days thereafter he was certified to be unfit for work by reason of phlebitis of the right thigh. His condition rapidly deteriorated and his subsequent death was attributed to carcinoma of the bronchus and thrombophlebitis migraines. It was held that death was not the result of an accident at work when he pushed the ask-box.
- R(I) 55/54 ii A colliery worker who had always enjoyed good health suffered an injury to his back, elbow and nose when a piece of flooring stone struck him in the back. Some 6 months afterwards his general condition appeared to be seriously deteriorating and when, a month later, he was examined at a hospital a hard mass was found in his abdomen. He was admitted to hospital and died the same day, the cause of his death being carcinoma of the stomach. It was held that on the weight of the medical evidence the deceased's death was in no way related to the accident.
- R(I) 6/60 iii A man was struck on the right groin by a steel plank and a month later was admitted to hospital, where it was found that he had a tumour in the right side of his abdomen. Five months later he died, the cause of his death being certified to be 'carcinoma of caecum'. The probability of the growth of the cancer, which clearly existed before the accident, having been accelerated by the injury presupposed a relationship between injury and cancer which a specialist had stated to be unknown

to his knowledge. It was held that there was no possible connection between the deceased's death and the injury. See also R(I) 25/60.

iv A claim was made for industrial death benefit, death having resulted from broncho-pneumonia and metastatic carcinoma of the stomach. The deceased had for many years been in employment involving exposure to asbestos and a post-mortem medical board had decided that the deceased had been disabled by pneumoconiosis (asbestosis) before his death. During the course of the appeal before the Commissioner evidence was presented on the question of a connection between death from gastrointestinal cancer and exposure to asbestos. The Commissioner decided that death had not resulted from a prescribed disease (pneumoconiosis) and that industrial death benefit was not payable. Other entries relating to this decision are at 9.1.1 iv and 12.2.6 xi.

R(I) 6/85

3 In cases of cerebral thrombosis

i A colliery worker struck his head a slight blow while working at a coal-mine and a week later collapsed at work. He died some 6 weeks thereafter from the effects of a cerebral haemorrhage. It was held that death did not result upon the accident since it was comparatively rare for a blow to cause intra-cerebral haemorrhage and it would be an extraordinary thing for a slight blow to cause a delayed haemorrhage 6 days later with no intervening symptoms. The deceased was of an age when cerebral haemorrhage from natural causes was not uncommon.

R(I) 53/53

ii A coal-miner met with an industrial accident and at first reported that he had injured his shoulder. He was certified to be incapable of work by reason thereof, but later he claimed that he had also injured his head, and about 3 weeks after the accident he became confused and gradually lost the use of his limbs and speech. Some 6 months after the accident he died and the *post-mortem* examination held that the immediate cause of his death was pulmonary embolus associated with heart failure and that he had also suffered from a cerebral thrombosis which was not the result of the accident since the head injury could not have been severe and the thrombosis had not occurred within a day or two of the accident. It was held that death was not the result of the injury. See also R(I) 9/58 and R(I) 25/58.

R(I) 21/56

4 In cases of leukaemia

i A farm labourer developed a small direct inguinal hernia at work which was successfully repaired, but 3 months after the operation he died from acute lymphatic leukaemia. Direct inguinal hernia is normally due to gradual stretching of the fibrous planes and not to extremely high intra-abdominal pressure. It was

R(I) 83/53

found on the evidence that it was unlikely that the strain of digging with a fork would cause damage to the spleen and that there was no casual connection between the injury by accident and the deceased's death. See as to the development of acute lymphatic and chronic myelogenous leukaemia paragraphs 5-11. See also R(I) 86/53.

5 In cases of aneurysm

- R(I) 21/57 i An attendant at a hospital collapsed while washing up and died 2 days later from a dissecting aortic aneurysm. The medical evidence showed that the start of a dissecting aneurysm would have given rise to immediate pain, and a rise in blood pressure caused by physical effort would have been transitory. The pain occurred while washing up and there was nothing to justify holding that there was any effort involved which would have caused the rupture. It was held that death was not due to an industrial accident.
- R(I) 28/58 ii A coal-miner met with an industrial accident when he fell and strained himself but, although he complained of pain in his chest, he completed his shift. Two days later he collapsed with severe pain and on the following morning had a further collapse and died within a few minutes. *At post-mortem* it was established that the cause of death was a dissecting aortic aneurysm and it was held that, on the medical evidence, death did not result from the relevant injury. See paragraphs 4-5.
- R(I) 43/59 iii A foundry worker received a blow on the side of his head from a suspended gas torch which caused a slight confusion. He complained of headaches for the next fortnight and a month later reported to the works surgery in a distressed condition following an attack of faintness and vomiting. He was admitted to hospital, where it was found that he was suffering from a subarachnoid haemorrhage due to rupture of an aneurysm of right posterior communicating artery. The skull was not fractured, but the spinal fluid was heavily blood-stained, though it showed no xanthochromia. It was held that death was not the result of the injury to the deceased's head which he had suffered as a result of an accident arising out of and in the course of his employment. See the medical evidence referred to in paragraphs 7-13.

6 In cases of pneumoconiosis

- i CWI 52/50 A colliery worker whose death was found by a coroner to have been caused by myocardial failure due to silicosis had been examined by the pneumoconiosis medical board, who provisionally assessed his disablement resulting from the disease at 20 per cent. It was held that the weight of the evidence was against the conclusion that death was the result of pneumoconiosis.
- ii R(I) 19/53 A coal-miner who suffered from pneumoconiosis to a fairly severe extent, and who also suffered from severe heart disease of constitutional origin, died as the result of a coronary thrombosis. It was held on the medical evidence that death did not result from pneumoconiosis since the deceased would have died when he did even if his lungs had been perfectly sound. The pneumoconiosis played no material part in causing death. See also R(I) 54/52.
- iii R(I) 79/53 A coal-miner suffered from an advanced stage of valvular heart disease due to rheumatic fever. He had been assessed as 20 per cent, disabled by pneumoconiosis prior to his death, but on *post-mortem* examination a consultant pathologist and member of the pneumoconiosis medical panel found that, although dust was present in the deceased's lungs, it had not been brought about pneumoconiosis and that death was due to heart disease and kidney disease. It was held that the fact that pneumoconiosis had been diagnosed by the pneumoconiosis medical panel in 5 previous examinations was explained by the difficulty in distinguishing radiologically between the effects in the lung of valvular disease of the heart and the early stages of pneumoconiosis. Pneumoconiosis did not contribute to the deceased's death. See also R(I) 7/55.
- iv R(I) 39/54 A colliery worker was in receipt of a disablement pension in respect of pneumoconiosis, the degree of his disablement having been assessed at 50 per cent. Some 4 years later he died and the cause of his death was certified to be duodenal ulcer, arterio-sclerosis and pneumoconiosis. *Post-mortem* examination showed that the degree of pneumoconiosis was slight and it was held that the balance of probability did not favour the view that the disease played any part in causing death, the immediate cause of which was the ulcer with the haemorrhage.
- v R(I) 9/56 A boiler lagger was certified to have died as the result of cor pulmonale due to chronic bronchitis and emphysema. Before his death he had been in receipt of a 70 per cent. industrial disablement pension in respect of a type of pneumoconiosis known as asbestosis. On the medical evidence it was held that death did not result from pneumoconiosis since the *post-mortem* examination showed no evidence of fibrosis of the lungs, which is an essential element of asbestosis. See paragraph 16.
- vi R(I) 26/56 Before he died a coal-miner was in receipt of a 20 per cent. disablement pension for pneumoconiosis for 2 years. The cause of his death was certified to be 'Cancer of the lung. Pneumoconiosis.' It was held on the medical evidence that the deceased's death did not result from pneumoconiosis for, although the pneumoconiosis present prevented operative treatment for carcinoma of the lung, the extent of the carcinoma precluded any prospect of an operation being successful.
- vii R(I) 1/60 A man who had been a boiler scaler for many years died suddenly, the cause of his death being certified, after *post-mortem* examination, as having been caused by (1) congestive heart failure and (2) boiler scaler's pneumoconiosis. It was held on the evidence that it was more likely that the deceased's death resulted from coronary ischaemia and that the condition of the lungs would not have caused sudden failure of the heart muscle. However in the present state of medical knowledge it was not possible to say that the balance of probabilities favoured the view that the presence of pneumoconiosis was a contributory factor in the causation of arterio-sclerosis of the coronary arteries. See also R(I) 2/60.
- viii R(I) 10/67 A former coal-miner suffered from pneumoconiosis for which he received disablement pension based on a 50 per cent. assessment. Following his death a pathologist recorded the cause of death as (1) coronary thrombosis and (2) essential

hypertension and pneumoconiosis (focal emphysema). Members of the pneumoconiosis medical panel and a senior medical officer were of the opinion that death was due to coronary thrombosis and neither resulted from nor was materially accelerated by pneumoconiosis. It was held that the question whether death resulted from pneumoconiosis was quite a different one from the question to what extent the deceased was disabled by the disease during his lifetime and that every case had to be judged on its own individual facts. In that case it was held that the deceased's death did not result from pneumoconiosis. See paragraphs 10-14 as to the functions of the heart and lungs and as to how an obstructive lung condition such as complicated pneumoconiosis can affect the heart and thereby contribute to death.

ix On *post-mortem* examination a hospital group of consultant pathologists recorded the cause of death of a former coal-miner who had suffered from pneumoconiosis *ante-mortem* as cardiac failure due to coronary occlusion, and added that the deceased's lungs would be investigated and to reported on. Two members of the pneumoconiosis medical panel examined the deceased's lungs and heart and agreed with the pathologist as to the cause of death, but notified the coroner that in their opinion pneumoconiosis, although present, was not a factor in causing death. The pathologist subsequently made a further report to the coroner after examining the deceased's lungs and changed his opinion as to the cause of death to (1) cardiac failure due to coronary insufficiency and (2) pulmonary insufficiency caused by pneumoconiosis, and the coroner recorded the verdict in accordance with those findings. It was held that coronary insufficiency alone can cause death and that on the balance of probabilities death was neither caused nor materially accelerated by pneumoconiosis. See paragraphs 19-20.

R(I) 5/74

x In 1949 a man who had worked as a coal-miner for 19 years was found to be suffering from pneumoconiosis and the degree of his disablement was assessed at 30 per cent. Nine years later the assessment was increased to 50 per cent., 10 per cent, of which was attributed to valvular disease of the heart. The medical board noted that mitral stenosis was present and that haemosiderosis was suspected. He died in March 1973 and *atpost-mortem* it was established that the direct cause of death was emphysema and stenosis incompetence of the mitral valve. It was contended on behalf of the widow's claim for industrial death benefit that the deceased had died on rheumatic valvular disease which had in life been wrongly diagnosed as pneumoconiosis and that if that mistake had not been made he could have been operated upon and would not have died when he did. It was held that there was no medical evidence that an operation for the heart condition was ever considered; that there was no suggestion that the heart condition was masked by the lung condition; that the amount of pneumoconiosis present was minimal; and that on the balance of probabilities death was not due to pneumoconiosis. See paragraphs 13-14 and see also 12.3.2 *v below*.

R(I) 8/75

xi The deceased had for many years been in employment involving exposure to asbestos, and a post-mortem medical board had decided that the deceased had been disabled by pneumoconiosis (asbestosis) for a short period before his death. The cause of death was broncho-pneumonia and metastatic carcinoma of the stomach. The Commissioner decided that death had not resulted from a prescribed disease (pneumoconiosis) and that industrial death benefit was not payable. For other synopses of this decision see 9.1.1 iv and 12.2.2 iv.

R(I) 6/85

7 In cases of prescribed diseases other than pneumoconiosis

i A slaughterman who was employed in the evisceration and dressing of pig carcasses developed prescribed disease no. 21 (commonly known as Weil's disease) and was incapable of work for some 8 months, whereafter he took other work, but 9

R(I) 38/54

months later died, the cause of his death being certified to be coronary thrombosis, myocardial degeneration and Weil's disease. It was found that the greater weight of medical opinion was that there was no known connection between Weil's disease and coronary thrombosis and it was held that the deceased had not died as the result of the prescribed disease.

R(I) 40/54 ii It was contended that man who had been employed as a painter for the whole of his working life, and who died at the age of 56, the cause of death being found at *post-mortem* to be malignant hypertension and kidney disease, was also the result of prescribed disease no. 1 (lead poisoning). It was held that, even if it were to be assumed, on the balance of probability, that lead poisoning was a possible cause of kidney disease with associated hypertension, there was not sufficient proof that the deceased suffered from lead poisoning to a relevant degree and that his death was not the result of the prescribed disease. See the detailed medical evidence referred to in paragraphs 10-17.

R(I) 38/56 iii A man had been employed for over 20 years in nursing mental patients and it was conceded that tuberculosis was a prescribed disease in relation to him. During the last 9 years of his life he attended a chest hospital on various occasions, but the specialist had not indicated that he had suffered from tuberculosis. The cause of his death was certified to be haemoptysis and sarcoidosis. Medical opinion was divided on the connection between the last-mentioned disease and tuberculosis and there was no other evidence that the deceased had suffered from tuberculosis. It was held on the available medical evidence that it had not been established that death resulted from the prescribed disease tuberculosis.

8 In cases of alleged suicide

CI 256/49 i A man who had been employed as an engine driver and who was in receipt of injury benefit on account of dermatitis committed suicide, but it was held that there was no evidence that the disease caused any physiological or psychological change which made the deceased brood over the state of his health and the probabilities of his re-employment. See also CWI 12/49 in which it was said that where it is contended that there was a casual relationship between a disease and suicide 'it is necessary for the claimant ... to show that the nervous derangement was a result of the disease and not the result of brooding over the disease, causing depression which might result in nervous derangement. That is to say, the nervous derangement must directly result from the disease and not indirectly in consequence of the disease'.

R(I) 38/51 ii A moulder at a foundry died as a result of carbon monoxide poisoning due to the inhalation of coal gas and at the inquest the coroner found that he had committed suicide while the balance of his mind was disturbed. Some 7 months previously he had fractured bones on his foot and in what was accepted as having been an industrial accident, but it was held that, in the light of all the evidence, there was no direct chain of causation between the accident and the suicide.

iii A colliery labourer who had fractured his leg and shoulder in an industrial

accident committed suicide, but it was held that his death did not result from the accident. A complete chain of causation must be established to show a connection in such a case, and in that case the chain was not complete. See paragraphs 9-10 and see also R(I) 23/57. R(I) 19/52

9 Other cases

i A 37-year-old man met with an industrial accident when he fell while carrying a plank which caught him in the back and as a result suffered from sprained muscles and an injury to his chest. He kept on complaining of pain in his chest and across the shoulder blades and a little under 2 years later it was diagnosed that he was suffering from a grave and progressive disease called myelomatosis. Less than a year later he died of wasting due to generalised myelomatosis of the bones, the spinal column, many ribs and the skull being among the bones affected. It was held on the evidence that the disease was not caused or materially aggravated by the injury and that death was not the result of injury by accident. R(I) 19/54

ii A hospital stoker who began his night-shift at 10 p.m. was found dead in the morning. He was lying on the floor of the mess-room adjoining the boiler-house with his head on a rolled-up coat and gas was escaping from a gas-ring, the tap of which was loose. It was held that in going to sleep on duty the deceased had removed himself from the scope of his employment and that his death did not result from personal injury caused by accident arising out of and in the course of his employment. R(I) 68/54

iii It was held that the death of a miner who died from acute haemorrhagic pancreatitis 2 months after injuring his back and ribs in a fall at work had not died as a result of the relevant injury. R(I) 19/59

iv Eight years before he died a coal-miner lost the sight of one of his eyes in an industrial accident, and later became completely blind when he lost the sight of the other eye from natural causes. He was anxious, worried, apprehensive and depressed. The cause of his death was certified to be malignant essential hypertension, but it was held that in the present state of medical knowledge there appeared to be no sure basis for holding that worry and anxiety could materially aggravate hypertensive disease and that the deceased's death was most probably due wholly to natural causes. See paragraph 10 where the connection between hypertension and kidney failure on the one hand and anxiety and hypertension on the other hand is discussed. R(I) 45/60

v An engine fitter in an aircraft factory was held by the insurance officer to have met with an industrial accident when lifting a heavy weight, and the medical board found that hernia of the diaphragm was caused by the accident and assessed the result of the disablement at 100 per cent. A little over a year after the accident the man died as a result of a pulmonary embolus which was a complication of the operation for repair of his hernia. It was held that, while the insurance officer had decided that the accident was an industrial accident, he had not decided, and was not called upon to decide, the particular nature of the personal injury which the deceased had suffered and that the R(I) 11/61

decision of the medical board on the disablement question was not binding on the Commissioner in relation to a claim for death benefit. The question whether death resulted from an industrial accident is a question for determination by the statutory authorities. It was held further that whereas the operation was necessary for repair of the hernia and the pulmonary embolus which caused the deceased's death was a complication on the operation, the accident did not cause or aggravate the hernia. See paragraphs 16-19 and see paragraphs 12-14 as to the aetiology of hiatus hernia of the diaphragm.

R(I) 7/66 vi An insured person was employed for the last 18 years of his life in the blasting department of a chemical factory, where he was more or less continuously exposed to two substances which were manufactured there, namely ethylene glycol dinitrate (E.G.D.N.) and nitro-glycerine (N.G.). He died suddenly at 10 a.m. on a Monday, which was a holiday, having done no work since the previous Friday. A full necropsy showed that there was nothing in the condition of his heart, or elsewhere, to explain his death, but investigations by toxicologists, cardiologists and experts in industrial medicine indicated that prolonged exposure to E.G.D.N. and N.G. could cause sudden death, and records showed that such deaths usually occur, not when a person is at work, but after a period of two days' absence from work, frequently on a Monday morning. It was held that the deceased's death was caused by his employment but that it had not been shown that there was personal injury 'by accident'. It was the result of a continuous process. See paragraphs 10-15.

Part 3: Industrial death benefit: general considerations

1 Widow's entitlement to death benefit

Section 67 of the Act.

i A woman was maintained free of charge in a mental home, but each week her husband regularly provided her with extras such as cigarettes, sweets, stationery, etc., and sometimes with clothing. He died as the result of an industrial accident and a claim for death benefit was made on behalf of the widow. It was held that benefit was payable to her on the ground that prior to the death of her husband she had been receiving periodical payments for her maintenance. R(I) 10/51

ii A claimant for industrial death benefit had been separated from her husband for some 22 years prior to his death as a result of an industrial accident. She had received nominal weekly payments from him under a court order but was also in receipt of a retirement pension by virtue of her late husband's insurance. It was held that the payments of retirement pension the claimant received fell to be regarded as periodical payments by her from the deceased and that death benefit was payable to her. See paragraphs 6-7. R(I) 7/74

2 Miscellaneous cases

i A claimant's son died as a result of an industrial accident when he was 20 years of age. It was not alleged that he was mainly maintaining his mother prior to his death, but it was said that he would have done so when he reached the age of 21. It was held that the possibilities of the future could not be taken into account for the purposes of determining the claimant's right to industrial death benefit. See paragraphs 10-13 and see now section 71(1) of the Act. CI 38/50

ii A claimant's adopted son was killed as the result of an industrial accident and it was held that, since the adoption had not been under the Adoption of Children Act 1926, she was not entitled to industrial death benefit as the 'parent' of the deceased. Nevertheless, as she was incapable of self-support, benefit was payable to her as a 'relative' of the deceased. See paragraphs 6-9 and see also C.I. 193/49. CI 266/50

iii In deciding a claim for industrial benefit the determining authority must decide on the available evidence whether it is shown that death resulted from the particular disease which it is founded upon, and that question must be decided upon its own merits. The finding by the competent medical authority that during his life-time the deceased suffered from a named condition may be helpful, but it cannot preclude consideration of the question of the cause of death as a new question to be determined on its own merits. During his life-time a man was diagnosed by a medical board as having pneumoconiosis, assessed as being a fully relevant condition, and cardiac R(I) 4/57

failure which was said to be a connected condition. Death was certified to be due to 'pneumoconiosis myocarditis', but there was also evidence that death was not the result of pneumoconiosis and the widow's claim for death benefit was disallowed.

iv A former coal-miner who was in receipt of disablement pension for pneumoconiosis was certified to have died from (1) carcinomatosis and (2) carcinoma of the lungs. It was held that pneumoconiosis did not delay the detection of the carcinoma and that death did not result from pneumoconiosis.

R(I) 6/74

v In a case relating to a former coal-miner who had been before a number of medical boards and received various assessments of the extent of his disablement resulting from pneumoconiosis it was pointed out that a medical board dealing with one period are not bound by the findings relating to other periods and that their duty is to make a correct assessment in the light of what they find. See paragraph 14 and see also *supra* 12.2.6 x.

R(I) 8/75

vi It was contended on behalf of the claimant whose husband had been in receipt of disablement benefit on account of pneumoconiosis during his life, and whose death was certified to have been due to carcinoma of the lungs associated with pneumoconiosis, that certain researches made in South Lancashire showed a casual relationship between pneumoconiosis and lung cancer. It was held that no inference could be drawn from those researches and that it had not been proved that the formation and progression of carcinoma was caused or materially contributed to by pneumoconiosis. See and compare R(I) 9/67, *supra* 12.1.3 i.

R(I) 10/75

Part 4: General considerations in case of death

1 Death grant

Section 32 of the Act.

i In order to be entitled to a death grant it must be proved that there was a death of a 'person'. It was held that a still-born child is not a person and that no death grant was payable in respect of the still-birth.

ii A man died in Scotland and it was held that, although the common law of England and Scotland differ in their methods of computing age, the National Insurance Act 1946 applied to both countries and accordingly it was held that, for national insurance purposes, the deceased had been over 55 years of age when the National Insurance Act 1946 came into force on 5th July 1948. In the result, therefore, death grant was payable at a reduced rate. See paragraphs 3-6.

R(G) 3/51

R(G) 3/65

2 Appointment under regulation 27 of the Social Security (Claims and Payments) Regulations 1975 of a person to proceed with or make a claim for benefit

i The widow of the deceased and a friend of his both satisfied the conditions for entitlement to a death grant. The widow had been separated from the deceased for some years before he died and the Minister of Pensions and National Insurance (as he then was) nominated the friend for entitlement to the grant. It was held that the Minister's decision nominating the friend was final and conclusive and binding on the statutory authority.

R(G) 6/55

ii A man appealed to the Commissioner from a decision of the local tribunal requiring repayment of an amount overpaid by way of an increased sickness benefit. While the appeal was pending the man died and no suitable person could be found for appointment under (what was then) regulation 18 of the National Insurance (Claims and Payments) Regulations 1948 to proceed with the appeal. The insurance officer applied to the Commissioner for the appeal to be dismissed, but it was held that on the death of the person an appeal 'abates' and could only be disposed of if some person was duly appointed and empowered to proceed with it, or the appeal was dismissed at the instance of a person entitled to apply for the dismissal of it. On the insurance officer's giving an undertaking that no attempt would be made to enforce the order for repayment the appeal was dismissed. See also R(I) 2/83.

R(S) 7/56

iii A local tribunal disallowed a claim for a special hardship allowance and the claimant appealed to the Commissioner, but died before the appeal could be heard. No one could be found who was willing to be appointed to proceed with the appeal and the insurance officer applied for the dismissal of it. The application was refused and eventually a relative agreed to be appointed to proceed with it. It was held that neither the claim nor an appeal is terminated by the death of a claimant and that it is a matter for the Commissioner to decide in his discretion how a particular case should be dealt with when there has been no appointment under the relevant regulations.

R(I) 7/62

iv A man who died intestate had nominated the secretary of a society to receive shares, etc., and to pay them to a charity. The society paid the funeral expenses but made no claim for a death grant, and later a claim was made by the almoner of the hospital in which the deceased had died with the intention of paying the grant to the specified charity. It was held that the death grant was not payable on the ground that the claim had not been made by a personal representative, legatee, next of kin or a creditor; in other words, by a 'specified person'. Further that 'personal representative' is to be construed, in relation to death grant, in its ordinary familiar legal sense of an executor appointed by the deceased or as an administrator to whom letters of administration have been granted.

R(G) 3/63

R(I) 2/83

v Where a claimant has appealed against a decision but has died since his appeal

has been launched and there is no person willing to be appointed a representative under regulation 29 of the Social Security (Claims and Payments) Regulations 1979 or any equivalent functionary in Scotland, and the case is not amenable to the procedure adopted in R(S) 7/56 (where the appeal by a claimant since deceased was against a requirement to repay overpaid benefit and the appeal was dismissed on an undertaking given not to enforce repayment), the Commissioner held that it is better not to dismiss the appeal, but merely to declare it abated. The appeal is then suspended only and is capable of being revived, although the matter can, for practical purposes be regarded as closed (paragraphs 5 and 6). See also R(S) 7/56; R(P) 2/62, R(I) 7/62, and R(SB) 25/84, 17.4.2x, 30.8.4iii *below*.

The decisions listed below are not included in chapter

A *Decisions relating to the amount incurred by way of funeral expenses - no longer relevant*

C.G. 30/50	C.G. 115/50	R(G) 2/52
C.G. 65/50	C.G. 145/50	R(G) 8/52
C.G. 66/50	C.G. 151/50	R(G) 13/52
C.G. 68/50	C.G. 177/50	R(G) 21/52
C.G. 86/50	C.G. 182/50	

B *Decisions relating to late claims for benefit and extinguishment of right to benefit*

C.G. 1/50	C.G. 184/50	R(G) 17/52
C.G. 76/50	C.G. 192/50	R(G) 5/55
C.G. 115/50	R(G) 9/52	

C *Decisions which depend upon special facts and/or to amounts which are no longer realistic, or which relate to the calculation of what was termed the 'family' or 'household' fund*

C.I. 103/49	R(I) 88/53
R(I) 19/51	R(I) 2/59
R(I) 4/52	R(I) 20/60

D *Decisions relating to adjudication*

C.G. 115/50	R(G) 3/58
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E *Decision relating to details of registration of death*

R(I) 4/74
