

38304

C0533/485  
KENYA

38304

COMPENSATION IN CASES OF DEATH + INJURY TO NATIVES

Previous

SEE 23233/14  
17291/31

Subsequent

1944

R-297 5/12/37

R-299

M: Passari 7/4

M: Dale 16

M: Flood 17

Sis S. Bollenby 19

299 23/4

R-297 28/4

Mr. Farmer 3/5

Room 197 15/5

Miss S. S. 5/6

R. 197

G.I.

NATIVE.  
COMPENSATION.

1. ACTING GOV. KENYA.....102.....9.2.37. 2  
 Details circumstances in which he requests covering sanction to the payment of £300 to the widow of N. Singh, a mechanic employed by the P.W.D., who was accidentally killed whilst on duty.

In a recent Uganda case (No.1 on 40175/36 Uganda) we suggested reconsideration of the amount of compensation proposed, which was glaringly inconsistent with the compensation which would be payable in accordance with the terms of the Model Ordinance.

In this Kenya case, however, the compensation has been assessed on the basis of the earlier Model Ordinance and is not glaringly inconsistent with the scale proposed under the latest Model Ordinance (i.e. two years wages instead of 2½ years). In the circumstances, I think we can approve the action taken in this case; but suggest that, in future, (whether in cases of death or injury) compensation should be paid on the basis of the latest Model Ordinance.

I submit draft for consideration.

(It is, I think, unnecessary in this case to elaborate <sup>on the</sup> the considerations which <sup>might</sup> arise, as we did in the Uganda despatch.)

J.J. Pasmin  
7/4

*Either basis is purely arbitrary.*  
J.J.P.

*as well as*  
H.

[Mr. [unclear] to see after action, & to consider whether it is worth putting the case on this file & on 40175/36 Uganda, for the General Workers' Compensation print].

W.D. 16.

Sri C. [unclear]

I think you should see in view of the large principle involved.

involved

v. [unclear]

H. [unclear]

all right; that the 5ft long down  
for future action can be worked  
ad lib in the interval before the  
D20 - materializes. I do not  
think there is sufficient reason  
for moving the action already  
taken in the present case.

Geo. S.  
19.4.37  
am

2 To Kenya - 330 - (1 Amed) — 23/4/37

Formal letter  
to Mr. Pashley's note  
acknowledged.

4 items  
noted.  
7/5/37  
6.37

Nos. 1 & 2 on this file  
+ also Nos. 1 & 2 on 40175736  
agenda should be included  
for this General Workers  
compensation series

James  
3/5/37  
am

D for action  
in view of 3/5

C. O.

Mr. Paskin 7/14/37  
Mr. Dale 16  
Mr. Flood 17

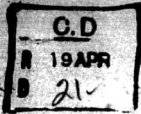


2  
4

Sir C. Parkinson.  
Sir G. Tomlinson.

Downing Street,  
23 April, 1937.

+ Sir C. Bottomley 19



Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Sir,

DRAFT.

KENYA.  
NO. 330  
GOVERNOR.

and to convey to you my covering sanction for the

I have etc. to acknowledge  
the receipt of ~~your~~ <sup>Mr. Wade's</sup> despatch No. 102 of

the 9th of February ~~on the subject of~~

the payment of <sup>£300 00</sup> compensation to the wife

of an employee of the Public Works

Department who was accidentally killed

by an accident arising out of and in the

course of his employment. 2. On the

question of principle involved, you <sup>will be</sup> are

aware from the memorandum <sup>enclosed in</sup> transmitted

with despatch No. 204 of the 19th of  
1935

March from Sir Philip Cunliffe-Lister's

(now Viscount Swinton) that it is

proposed that when a Workmen's

Compensation Ordinance is enacted, it

shall apply to "workmen" employed by

the Government to the same extent as

if

(Print  
herewith)

FURTHER ACTION.

Mr. James  
after seeing  
min. etc.



if the employer were a private person. Pending the enactment of such legislation, I consider that it is reasonable that (except in cases where other provision is made, e.g. under a Pensions Ordinance) compensation should be paid to Government employees in accordance with the provision which it is proposed to make under the Workmen's Compensation Ordinance, of which the most recent draft was transmitted with Sir Philip Cunliffe-Lister's despatch No. 177 of the 6th of March, 1935.

(Print herewith)

3. I observe that the amount of compensation granted in the case of the wife of Hashitar Singh represents the equivalent of two years wages at the average monthly rate of wages earned by the man during the time he was in the employment of Government. This is in accordance with the provision made in ~~the draft~~ the draft

Workmen's Compensation Bill forwarded with Sir Joseph Byrne's despatch No. 474 of the 23rd of September, 1934. I am, however, inclined to the view that it would be preferable in future to deal with such cases <sup>(in case of death or injury)</sup> on the basis of the most recent

Model

G. O.

Mr.

Mr.

Mr.

Sir C. Parkinson.

Sir C. Parkinson.

Sir C. Baskerville.

Sir J. Shackburgh.

Forw. U.S. of S.

Forw. U.S. of S.

Secretary of State.

(Print herewith)

(No. 2 on 4075/AC)

Model Ordinance, (of which copies were enclosed) transmitted with Sir Philip

Cunliffe-Lister's despatch No. 177

of the 6th of March, 1935. I have recently suggested to the Governor of

Uganda that cases of compensation in the event of Government employees

being injured or killed by accidents arising out of and in the course of

their employment, should be dealt with on this basis.

4. If a Workmen's Compensation Ordinance were in operation the payment

of compensation would be a statutory obligation on Government. In the

circumstances, I am prepared to agree to your authorising the payment of

compensation in appropriate cases on the basis of the Model Ordinance

without prior reference to me.

I have, etc.

(Signed) W. ORMSBY GORE

DRAFT.

FURTHER ACTION.

KENYA.

No. 102

RECEIVED

8-MAR 1937

C. O. REGY



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

9 February, 1937.



Sir,

81468/31  
With reference to Lord Passfield's Circular despatch of the 17th July, 1931, regarding the authority required for items of expenditure of an abnormal character, I have the honour to request your covering sanction to a payment of £300 which I caused to be made in the following circumstances.

2. Nashitar Singh, a mechanic employed by the Public Works Department on a temporary basis at an hourly rate of Shs.1/10, was accidentally killed while attempting to put a belt on to the flywheel of a stone crusher after the engine had been started. The matter was referred to the Attorney General, who advised that while Government was not legally liable the case was one in which an ex gratia payment should properly be made. This recommendation was endorsed by the Treasurer and the Acting Principal Labour Officer, who assessed the amount at £300, which represents two years' wages at the average monthly rate of wages earned by the man during the time he was in the employment of Government, and is in accordance with the schedule on which compensation in such cases is based. The deceased person left a wife but no children.

Recd - 2

THE RT. HON.  
W. ORLESBY GORE, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET, LONDON, S.W.1.

2.  
children.

3. I have accordingly signed a Special Warrant for £300 which has been paid to the widow, and in view of the comparatively large amount involved in this particular case and the fact that it would not be provided for by regulation or legislation, I considered it desirable to report the facts of the case for your covering sanction.

I have the honour to be,

Sir,

Your most obedient, humble servant,

*Admiral*

ACTING GOVERNOR.