
HOUSE BILL 1354

State of Washington

53rd Legislature

1993 Regular Session

By Representatives G. Cole, Franklin and King; by request of Department of Labor & Industries

Read first time 01/25/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance death benefits; amending
2 RCW 51.32.050; providing an effective date; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.050 and 1991 c 88 s 2 are each amended to read
5 as follows:

6 (1) Where death results from the injury the expenses of burial not
7 to exceed two (~~thousand dollars~~) hundred percent of the average
8 monthly wage in the state as defined in RCW 51.08.018 shall be paid.

9 (2)(a) Where death results from the injury, a surviving spouse of
10 a deceased worker eligible for benefits under this title shall receive
11 monthly for life or until remarriage payments according to the
12 following schedule:

13 (i) If there are no children of the deceased worker, sixty percent
14 of the wages of the deceased worker but not less than one hundred
15 eighty-five dollars;

16 (ii) If there is one child of the deceased worker and in the legal
17 custody of such spouse, sixty-two percent of the wages of the deceased
18 worker but not less than two hundred twenty-two dollars;

1 (iii) If there are two children of the deceased worker and in the
2 legal custody of such spouse, sixty-four percent of the wages of the
3 deceased worker but not less than two hundred fifty-three dollars;

4 (iv) If there are three children of the deceased worker and in the
5 legal custody of such spouse, sixty-six percent of the wages of the
6 deceased worker but not less than two hundred seventy-six dollars;

7 (v) If there are four children of the deceased worker and in the
8 legal custody of such spouse, sixty-eight percent of the wages of the
9 deceased worker but not less than two hundred ninety-nine dollars; or

10 (vi) If there are five or more children of the deceased worker and
11 in the legal custody of such spouse, seventy percent of the wages of
12 the deceased worker but not less than three hundred twenty-two dollars.

13 (b) Where the surviving spouse does not have legal custody of any
14 child or children of the deceased worker or where after the death of
15 the worker legal custody of such child or children passes from such
16 surviving spouse to another, any payment on account of such child or
17 children not in the legal custody of the surviving spouse shall be made
18 to the person or persons having legal custody of such child or
19 children. The amount of such payments shall be five percent of the
20 monthly benefits payable as a result of the worker's death for each
21 such child but such payments shall not exceed twenty-five percent.
22 Such payments on account of such child or children shall be subtracted
23 from the amount to which such surviving spouse would have been entitled
24 had such surviving spouse had legal custody of all of the children and
25 the surviving spouse shall receive the remainder after such payments on
26 account of such child or children have been subtracted. Such payments
27 on account of a child or children not in the legal custody of such
28 surviving spouse shall be apportioned equally among such children.

29 (c) Payments to the surviving spouse of the deceased worker shall
30 cease at the end of the month in which remarriage occurs: PROVIDED,
31 That a monthly payment shall be made to the child or children of the
32 deceased worker from the month following such remarriage in a sum equal
33 to five percent of the wages of the deceased worker for one child and
34 a sum equal to five percent for each additional child up to a maximum
35 of five such children. Payments to such child or children shall be
36 apportioned equally among such children. Such sum shall be in place of
37 any payments theretofore made for the benefit of or on account of any
38 such child or children. If the surviving spouse does not have legal
39 custody of any child or children of the deceased worker, or if after

1 the death of the worker, legal custody of such child or children passes
2 from such surviving spouse to another, any payment on account of such
3 child or children not in the legal custody of the surviving spouse
4 shall be made to the person or persons having legal custody of such
5 child or children.

6 (d) In no event shall the monthly payments provided in subsection
7 (2) of this section exceed one hundred percent of the average monthly
8 wage in the state as computed under RCW 51.08.018.

9 (e) In addition to the monthly payments provided for in (2)(a)
10 through (2)(c) of this section, a surviving spouse or child or children
11 of such worker if there is no surviving spouse, or dependent parent or
12 parents, if there is no surviving spouse or child or children of any
13 such deceased worker shall be forthwith paid ((the)) a sum ((of one
14 thousand six hundred dollars)) equal to one hundred percent of the
15 average monthly wage in the state as defined in RCW 51.08.018, any such
16 children, or parents to share and share alike in said sum.

17 (f) Upon remarriage of a surviving spouse the monthly payments for
18 the child or children shall continue as provided in this section, but
19 the monthly payments to such surviving spouse shall cease at the end of
20 the month during which remarriage occurs. However, after September 8,
21 1975, an otherwise eligible surviving spouse of a worker who died at
22 any time prior to or after September 8, 1975, shall have an option of:

23 (i) Receiving, once and for all, a lump sum of twenty-four times
24 the monthly compensation rate in effect on the date of remarriage
25 allocable to the spouse for himself or herself pursuant to (2)(a)(i) of
26 this section and subject to any modifications specified under (2)(d) of
27 this section and RCW 51.32.075(3) or fifty percent of the then
28 remaining annuity value of his or her pension, whichever is the lesser:
29 PROVIDED, That if the injury occurred prior to July 28, 1991, the
30 remarriage benefit lump sum available shall be as provided in the
31 remarriage benefit schedules then in effect; or

32 (ii) If a surviving spouse does not choose the option specified in
33 (2)(f)(i) of this section to accept the lump sum payment, the
34 remarriage of the surviving spouse of a worker shall not bar him or her
35 from claiming the lump sum payment authorized in (2)(f)(i) of this
36 section during the life of the remarriage, or shall not prevent
37 subsequent monthly payments to him or to her if the remarriage has been
38 terminated by death or has been dissolved or annulled by valid court

1 decree provided he or she has not previously accepted the lump sum
2 payment.

3 (g) If the surviving spouse during the remarriage should die
4 without having previously received the lump sum payment provided in
5 (2)(f)(i) of this section, his or her estate shall be entitled to
6 receive the sum specified under subsection (2)(f)(i) of this section or
7 fifty percent of the then remaining annuity value of his or her pension
8 whichever is the lesser.

9 (h) The effective date of resumption of payments under (2)(f)(ii)
10 of this section to a surviving spouse based upon termination of a
11 remarriage by death, annulment, or dissolution shall be the date of the
12 death or the date the judicial decree of annulment or dissolution
13 becomes final and when application for the payments has been received.

14 (i) If it should be necessary to increase the reserves in the
15 reserve fund or to create a new pension reserve fund as a result of the
16 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
17 such increase in pension reserve in any such case shall be transferred
18 to the reserve fund from the supplemental pension fund.

19 (3) If there is a child or children and no surviving spouse of the
20 deceased worker or the surviving spouse is not eligible for benefits
21 under this title, a sum equal to thirty-five percent of the wages of
22 the deceased worker shall be paid monthly for one child and a sum
23 equivalent to fifteen percent of such wage shall be paid monthly for
24 each additional child, the total of such sum to be divided among such
25 children, share and share alike: PROVIDED, That benefits under this
26 subsection or subsection (4) shall not exceed sixty-five percent of the
27 wages of the deceased worker at the time of his or her death or one
28 hundred percent of the average monthly wage in the state as defined in
29 RCW 51.08.018, whichever is the lesser of the two sums.

30 (4) In the event a surviving spouse receiving monthly payments
31 dies, the child or children of the deceased worker shall receive the
32 same payment as provided in subsection (3) of this section.

33 (5) If the worker leaves no surviving spouse or child, but leaves
34 a dependent or dependents, a monthly payment shall be made to each
35 dependent equal to fifty percent of the average monthly support
36 actually received by such dependent from the worker during the twelve
37 months next preceding the occurrence of the injury, but the total
38 payment to all dependents in any case shall not exceed sixty-five
39 percent of the wages of the deceased worker at the time of the death or

1 one hundred percent of the average monthly wage in the state as defined
2 in RCW 51.08.018, whichever is the lesser of the two sums. If any
3 dependent is under the age of eighteen years at the time of the
4 occurrence of the injury, the payment to such dependent shall cease
5 when such dependent reaches the age of eighteen years except such
6 payments shall continue until the dependent reaches age twenty-three
7 while permanently enrolled at a full time course in an accredited
8 school. The payment to any dependent shall cease if and when, under
9 the same circumstances, the necessity creating the dependency would
10 have ceased if the injury had not happened.

11 (6) For claims filed prior to July 1, 1986, if the injured worker
12 dies during the period of permanent total disability, whatever the
13 cause of death, leaving a surviving spouse, or child, or children, the
14 surviving spouse or child or children shall receive benefits as if
15 death resulted from the injury as provided in subsections (2) through
16 (4) of this section. Upon remarriage or death of such surviving
17 spouse, the payments to such child or children shall be made as
18 provided in subsection (2) of this section when the surviving spouse of
19 a deceased worker remarries.

20 (7) For claims filed on or after July 1, 1986, every worker who
21 becomes eligible for permanent total disability benefits shall elect an
22 option as provided in RCW 51.32.067.

23 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and shall take
26 effect July 1, 1993.

--- END ---