



EMPLOYEES' OLD AGE BENEFITS INSTITUTION
OFFICE OF THE DIRECTOR GENERAL (OPERATIONS)
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Circular No. 02 / 2017-18

[Determination of Arrears of Pension in Survivor Pension Claims]

1) **Preamble**

The prime responsibility of every officer of the institution is to act as a "Trustee" of the "EOB Fund" with the responsibility to ensure that all benefits are paid out of the fund in a uniform and judicious manner in accordance with the requirements of EOB Act 1976, Rules & Regulations made there-under as well as other statutes and canons of law. There is no room for disbursement of benefits on the basis of past liberal practices based on element of sympathy, divorced from legal dictums.

The EOB fund is fast depleting due to legal lacunas, post devolution litigations and increasing liability of enhanced benefits. The last actuarial evaluation of the fund upto 30.06.2012 carried out in 2015 has revealed that the EOB fund shall start depleting in 2023 and be exhausted in 2027. It is therefore, incumbent every officer of the institution weather they work in the Operations, Adjudication, IT, Law, Finance etc. to ensure sustainability of the fund on long term basis to avoid any situation of chaos and uncertainty arising from possible depletion of the fund.

This Circular on determination of arrears of pension in survivor pension claims should be understood in the above prospective. It shall therefore be incumbent upon every officer of the Institution to implement this Circular in the letter in spirit.

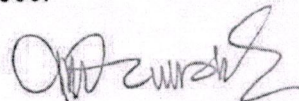
2) **Determination of Arrears of Pension in Survivor Pension Claims**

It is observed that in utter disregard of law, survivor pensions are processed without first processing Old-Age Pension claims (where applicable). Thus resulting in huge arrears in some cases upto 15 to 20 years, even where the deceased had never claimed Old-Age Pension in his lifetime. It may be understood very clearly that survivor pension though mentioned as a separately as section 22B, it is an off-shoot of Old-Age pension and mere inclusion through separate section does not make it an independent benefit away from Old-Age pension.

In case of claimants of survivor pension, where insured person was not in receipt of Old Age Pension, huge arrears are paid from date of death without observing the restriction of arrears to six months from filing of claim for Old-Age Pension u/s. 22(3). As per existing practice, when survivor as "claimant", files a claim, the claim of Old-Age pension of the deceased is processed first. Hence it is absolutely illegal to grant arrears beyond six months for the survivor pension without observing limitation of section 22(3). Once the Old-Age Pension is approved, the case may then be converted into Survivor pension. The delay condonation (if applicable) shall also be restricted to Old-Age Pension as a basic claim. The RCC shall specifically make a note about above discussion on such claims.

All different variants of survivor pension are enumerated as under;

- (i) Section 22B(1) stipulates "In service death" of an IP before reaching age of pensionary benefits but after having completed 3 years of insurable employment while being in insurable employment at the time of death.
- (ii) Section 22B(1A) stipulates "In service death" of an IP before reaching age of pensionary benefits but after having completed 5 years of insurable employment while not being in insurable employment at the time of death.
- (iii) Section 22B(2) stipulates Death of an IP after he / she had reached the age of pensionary benefits but had died before Old-Age / invalidity pension was granted to him / her.
- (iv) Section 22B(3) Stipulates pensionary benefits to children after the death of spouse as survivor pension recipient.
- (v) Section 22B(3A) stipulates extension of pensionary benefits to other children upon death / age factor of recipient of survivor pension.
- (vi) Section 22B(3B) stipulates payment of survivor pension to surviving parents.
- (vii) Section 22B(4) stipulates survivor pension to the children in case of pre-deceased spouse and to parents in case of being issue less.



While there is no confusion regarding survivor pension granted to cases mentioned at (iii) to (vii) above, there is serious confusion regarding (i) & (ii) above. These two conditions are after often misused to extend pensionary benefits in some of the following cases;

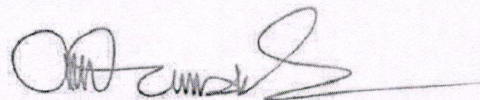
- (a) IP was an Old-Age grant recipient. After his death, spouse applies for survivor pension u/s.22B(1A), which actually relates to in service death of IPs.
- (b) No Old-Age pension / grant was allowed. After his death spouse applies for survivor pension u/s.22B(1A).

To elaborate further, the IP's case was settled through "Old-Age Grant" due to less than minimum required insurable employment. After his death, spouse is wrongly granted pension under section 22(1)&(1A) on the pretext that IP was not in insurable employment at the time of death, hence the spouse could be granted survivor pension on the basis of 3/5 years of insurable employment of the deceased. The spouse is also granted arrears from the date of death of IP, without realizing that the instant clause only applied to the entitlement of survivor pension in such cases where IP dies before reaching age of pensionary benefits. The grant of survivor pension in such cases is illegal as the status of "Old-Age Grant" recipient is that of a "Pensioner" and not of an "Insured Person". Hence, in such cases, no survivor pension shall be granted, as the claimant has already received full and final settlement of his due benefits.

The EOB Act being a beneficial law has allowed reduced / length of insurable employment for entitlement to Survivor pension with 03 or 05 years of insurable employment for deceased insured persons who dies before reaching the age of pensionary benefits.

The act is silent on restriction of arrears to be paid in case of Survivor Pension under section 22B. However, it is elaborated that "Survivor Pension" is not an independent pension rather it is continuation of Old Age Pension, as the Act only recognizes Old-Age Pension / Grant based on insured person's insurable employment.

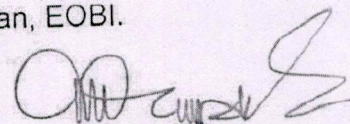
All calculations for survivor pension are also based on insurable employment of the insured person. In-fact, the pension is also awarded to the insured person and after death, it is immediately transferred to his / her survivor as per section 22B.



Therefore, it can easily be inferred that Survivor Pension is continuation Old Age Pension to the legal heirs of the Insured person starting from Surviving Spouse to Children and Parents (subject to specified conditions). The law makers have wisely not provided any limitation of restriction of arrears to 6 months from date of filing of claim in Section 22B as they did not consider survivor pension as a benefit independent of Old-Age pension. Therefore, with the exception of cases falling in section 22B(1)&(1A), Old-Age Pension is processed before transfer to survivor pension, all legal limitations and restrictions of arrears to six months shall apply as in the case Old Age Pension u/s.22(3). Hence, in no case, Survivor pension shall be treated as a benefit, independent of old-age pension. Therefore, arrears upto a maximum of 6 months from date of filing of claim shall apply to survivor pensions as in the case of Old-Age Pension where such claim is made when the deceased insured person was not a recipient of Old-Age Pension. Pension cases u/s. 22B(1) & (1A) arises based on insurable employment of the deceased, hence limitation u/s. 22(3) shall apply to such cases as well.

This Circular shall override any of the previous Circulars / instructions on the subject to the extent of inconsistency. All pending pension claim as on the date of this Circular shall be processed under this Circular.

This Circular is being issued with the approval of Chairman, EOBI.



(Abdul Wahid Uqaily)
Director General (Operations)