



125. **An employee completed only 8 months of service and unfortunately passed away. Is the employee eligible for gratuity as per the Payment of Gratuity Act, 1972?**

In the scenario where an employee has completed 8 months of service and has unfortunately passed away, the eligibility for gratuity under **Section 4 of the Payment of Gratuity Act, 1972** is a key concern. Here are relevant legal provisions and how they apply:

Understanding Section 4 of the Payment of Gratuity Act:

1. Basic Rule for Gratuity:

- As per **Section 4(1)**, gratuity is typically payable only if an employee has completed **continuous service for at least five years**.
- However, the Act provides exceptions in cases of **death or disablement**.

2. Exception for Death or Disablement:

- The **proviso to Section 4(1)** clearly states that the **requirement of completing five years of continuous service does not apply in cases where the employee's service is terminated due to death or disablement**.
- Therefore, in the unfortunate event of an employee's death, gratuity becomes **payable**, irrespective of the length of service, even if the employee has only completed 8 months of service.

3. Payment to Nominees/Heirs:

- If the employee had **nominated a beneficiary**, the gratuity is to be paid to that nominee. If no nomination was made, it is paid to the **legal heirs** of the deceased.
- If any of the nominees or heirs is a minor, the gratuity amount due to them would be deposited with a **controlling authority**, which will manage the funds for the minor's benefit until they reach the age of majority.

Amount of Gratuity:

- **Section 4(2)** clarifies the method of calculating gratuity. It states that for every completed year of service, or **part thereof** in excess of six months, gratuity is payable at the rate of **15 days' wages** based on the **last drawn wage**.

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- Since the employee had completed only **8 months** of service, this period will be considered as "**part thereof**" and considered as **1 year for gratuity calculation**.

Example:

1. Employee Details:

- **Name:** Mr. C
- **Monthly Wage:** ₹36,000
- **Duration of Service:** 8 months
- **Reason for Termination:** Death

2. Calculation of Gratuity:

- **Gratuity Calculation:**

- Since Mr. C served for **8 months**, for gratuity calculation purposes, it will be treated as **1 year** of service because any service exceeding **6 months** but less than **1 year** is considered as 1 year.

- **Using the formula:**

$$\text{Gratuity} = \text{Last Drawn Wages} \times \text{Years of Service} \times 15 / 26$$

- **Plugging in the values:** ₹ 36,000 × 1 × 15/26

- **Gratuity:** ₹ 20,769.23

In this case, Mr. C's family or nominee would be eligible to receive approximately **₹20,769.23** as gratuity due to his death, even though he only served for **8 months**. This amount would be paid to his nominated beneficiary or legal heirs, providing financial support during this tragic time.

Conclusion:

In the event of an employee's death, even after only 8 months of service, the employee's family or nominee is **eligible to receive gratuity** as per the **exception clause** in Section 4 of the Payment of Gratuity Act, 1972. This is an important legal protection that ensures financial support to the employee's family in tragic circumstances.

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