

JBM/AJH

Bulleter -
Commissioner's File: CSB/17/1985

C A O File: AO 2090/85

Region: London South

*SP. funeral
expenses.
Sikh faith
abroad.*

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SOCIAL SECURITY
APPEAL TRIBUNAL ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Rukman Kaur (Mrs.)

Social Security Appeal Tribunal: Southampton

Case No: 18/1908

1. My decision is that the decision of the Southampton social security appeal tribunal dated 5 September 1984 is erroneous in point of law. Accordingly I set it aside and give the decision the appeal tribunal should have given namely that the claimant is entitled to a single payment of £25.00 as the cost of a casket and of a further single payment of £19.00 as the cost of postage of that casket to India.
2. This is an appeal by the claimant to the Commissioner with the leave of the Commissioner from the decision of the appeal tribunal confirming the decision of the adjudication officer issued on 22 June 1984 set out in box 1 of form AT 2.
3. The facts and history of the matter are dealt with in paragraphs 1 to 7 inclusive of the submission dated 27 February 1984 of the adjudication officer now concerned on which the claimant has had the opportunity to comment. I do not propose to set these matters out afresh here.
4. The relevant statutory provisions are referred to in paragraph 8 of the submission dated 27 February 1985 of the adjudication officer now concerned. No useful purpose would be served by my setting out these references afresh here.
5. The only issue before me in this appeal is the question of a single payment in respect of the costs of conveying the ashes of the claimant's late husband to India in accordance with the requirements of his faith which I understand was the Sikh faith. The costs total £44.00 comprising first the cost amounting to £25.00 of a casket and secondly the cost amounting to £19.00 of postage of that casket to India. The adjudication officer decided that these costs were not essential expenses of the funeral in accordance with regulation 8(2) of the Single Payments Regulations.
6. In my judgment the tribunal concluded correctly that the costs in question fell within the provision of regulation 8(2)(f) in that they arise from a requirement of the religious faith of the deceased and are thus an essential expense of the funeral for which a single payment might be made under regulation 8(1). However, the tribunal erred in law in that they found that these costs arose outside the United Kingdom and could not therefore be met by way of a single payment. In so concluding that misconstrued regulation 6(1)(d) of the Single Payments Regulations. In my judgment the tribunal erred in point of law in finding that a need

for either cost had arisen outside the United Kingdom and that regulation 6(1)(d) therefore has no effect in the instant case. The claimant is manifestly entitled to a single payment of £25.00 pursuant to regulation 8(1) of the Single Payments Regulations and also in respect of the cost of postage I find that this is a need which manifestly arises within the United Kingdom. The principle of "staged need" expounded in Decision R(SB)14/83 has no practical application in the case of postage of an item from the United Kingdom to a foreign destination and I find that this need may properly be met under regulation 8(1) of the Single Payments Regulations.

7. In accordance with my jurisdiction set out in regulation 27 of the Social Security (Adjudication) Regulations 1984 my decision is as set out in paragraph 1 above. It is expedient as the facts are found that I give the decision the tribunal should themselves have given.

8. Accordingly the claimant's appeal is allowed.

(Signed) J.B. Morcom
Commissioner

Date: 18 June 1985