

# The Verdict



January 2018

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*Thus, the beneficiaries and dependants ought to be placed in the position they would have been had the employer submitted all the required and necessary documents pertaining to the death benefit claim in time.”*

MA Lukhaimane  
Pension Funds  
Adjudicator

## LATE SUBMISSION OF CLAIM DOCUMENTATION - EMPLOYER HELD LIABLE TO PAY DEATH BENEFITS

Two widows, Ms Shongwe and Ms Kubeka, complained to the Pension Funds Adjudicator that the South African Local Authorities Pension Fund and the South African Police Service (SAPS) were responsible for the repudiation of their spouses’ death claims.

Ms Shongwe’s husband passed away on 26 July 2012. He had worked for the SAPS all his life.

Following his demise, a death benefit was paid to the deceased’s dependants. However, a life assurance benefit claim was repudiated by the insurer due to the late submission of the necessary claim documents by the employer. The complainant was dissatisfied with the quantum of the death benefit paid to her. She submitted that the deceased had been a loyal employee for 30 years and believed she was entitled to a greater benefit.

The Fund submitted that although the deceased died on 26 July 2012, the death notification form was stamped 2 October 2013. It stated that its administrator confirmed that the group life assurance benefit was not paid to the beneficiaries as it was declined by the insurer due to late notification of more than 12 months. It submitted that the employer failed to submit the claim in time in terms of its rules. The employer failed to provide a response to the complaint.

Ms Kubeka said that following the death of her husband, a death benefit was paid to the deceased’s dependants. However, a life assurance benefit claim was repudiated by the insurer on grounds of late lodging of the requisite claim documents by the employer.

The Fund submitted that having investigated the matter, it established that claim documentation was received from the employer 23 months after the date of death of the member. The employer again failed to provide a response to the complaint.

In her determinations, Ms Lukhaimane said the entitlement to and payment of a death benefit was governed by the Fund’s rules. In these instances, the death benefit claims had been repudiated by the insurer on the basis that the insurer was informed about the deaths after the required time had lapsed.

The Adjudicator held that “had the employer submitted the death claim documents timeously, the dependants in both cases would have been entitled to a benefit as provided for in the Fund rules. Thus, the beneficiaries and dependants ought to be placed in the position they would have been had the employer submitted all the required and necessary documents pertaining to the death benefit claim in time.” The Adjudicator confirmed that it was imperative for the Fund to educate the employer on its role and responsibility in terms of the Fund rules.

She further stated that the unwarranted payment of the death benefit by the SAPS would presumably be funded from the budget allocation of the SAPS from the fiscus. “This amounts to a waste of tax payers’ funds as the death claim was an insured benefit that would have been settled by the registered insurer and premiums were duly paid.”

The Adjudicator ordered the Fund to make the employer aware of its obligations in terms of the Fund rules and ordered the employer, in both complaints, to pay the beneficiaries the outstanding insured death benefit plus interest.

**Lessons to be learnt from this case:**

- ▶ Employers should ensure that claim documentation is submitted timeously to prevent the repudiation of claims by insurers or they may be held liable.
- ▶ Boards of Funds must make employers aware of their role and responsibility in terms of the Fund rules.

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