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The Death Grant for Salaried Employees
An Analytical Study in the Amended and Supplemented Algerian Social Insurance
Law

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Abstract :

Algeria is keen to expand the scope of social protection, so the legislator enacted the death grant for salaried workers in social security legislation as a mechanism for insuring against the risk of death in social insurance law, with the aim of securing the rights holders of the insured and ensuring their continued livelihood.

The death grant is a lump sum paid equally to the rights holders of the insured after his death by the National Social Insurance Fund for Salaried Workers (CNAS), according to controls specified by the legislator, some of which relate to the insured in terms of the duration and his professional status before his death, and others relate to determining the beneficiaries among his rights holders, how to determine its value and disbursement, as well as the procedures for obtaining it.

The legislator seeks with these legal provisions to embody social justice and the principle of social security in society.

Keywords: Social protection, risk of death, death insurance, socially insured, death grant, National Social Insurance Fund for Salaried Workers

Introduction

Social risks have become a factor threatening the lives of working individuals and their dependents, leading them to seek a formal protection mechanism or system. This has prompted states to establish social security systems to confront these risks with mechanisms consistent with their economic and social policies.

Algeria, like other countries that inherited the social security system from the French system, and to achieve social protection against income cessation or reduction due to risks such as illness, old age, disability, or death, among others, issued its first social insurance law under Law No. 83/11 dated 02/07/1983. This law has since evolved and expanded to cover multiple risks and various categories of society.

Research Importance

The research on the death grant derives its importance from the significance of social protection, as the death grant is one of the mechanisms of social protection. It enables the rights holders of the deceased insured to financially cope with all the material effects resulting from the risk of death, which causes disruption to their income or expenses, and restores their social balance.

Consequently, the death grant is considered a mechanism for community development and achieving a dignified life, and thus it is a mirror reflecting the state's embodiment of the human right to social protection, which is constitutionally enshrined.

Research Objectives

Our study of the death grant topic takes on legal dimensions that reflect its social and economic impacts on society. This research aims to define the legislative framework that determines the meaning of the death grant, the conditions for benefiting from it, the procedures for obtaining it, how to calculate its monetary value, and the role of the administrative bodies responsible for its disbursement. This is to clarify its social and economic impact in supporting the family members of the insured and assisting them in alleviating the burdens resulting from the risk of death, protecting them from poverty, and ensuring their stability in facing financial crises after the death of their breadwinner, thereby highlighting the state's policy in the extent of protecting the citizen's social right from the negative effects of the risk of death.

Problem Statement

The legislator has granted the right to benefit from the death grant to the rights holders of deceased salaried insured individuals from the National Social Insurance Fund for Salaried Workers (CNAS) and to the rights holders of deceased non-salaried insured individuals from the Social Security Fund for Non-Salaried Workers (CASNOS). The provisions governing this grant are organized within social security legislation. We have attempted to study this topic within the scope of a specific category of workers, namely: "salaried workers," by answering the following problem statement:

Have the legal provisions regulating the death grant for salaried workers achieved their legal objectives for the rights holders of deceased insured individuals in Algerian social insurance law?

Or, in other words: Are the legal provisions regulating the death grant for salaried workers sufficient to achieve their legal objectives for the rights holders of deceased insured individuals in Algerian social insurance law?

Previous Studies

Despite the overall importance of social security, previous studies on this topic are rare, and research on the death grant is almost non-existent. After in-depth research on this topic, we found only one study that focuses on a single aspect of the subject, which is the legal classification of funds obtained from social security bodies due to the death of the insured; whether it is an inheritance or a legal grant. This study, by Dr. Nezlioui Kheireddine, published in the Algerian Journal of Islamic Studies, dealt with the topic through a comparative study between law and Islamic Sharia. It concluded that the death grant is a legal grant and not the property of the insured, legally and religiously, and is due to specific legally defined individuals. Therefore, it did not address the topic from a comprehensive legal perspective.

Study Methodology

Based on the objectives of this study, we adopted the analytical approach for the cognitive content of the topic, considering it the most suitable for addressing the research topic. We collected relevant legislative texts and concepts, then studied them by analyzing and deriving their constituent elements to extract results and achieve the study's study objectives.

Research Plan

Chapter One: Basic Concepts Related to the Death Grant

Section One: The Concept of Death as the Beginning of the Right to Benefit from the Death Grant

Section Two: The Concept of Death Insurance

Chapter Two: Legal Controls for Entitlement to the Death Grant

Section One: Legal Controls Related to the Legal Status of the Deceased Insured

Section Two: Legal Controls for Benefiting from the Death Grant

Chapter One: Basic Concepts Related to the Death Grant

In light of the social and economic challenges facing the working individual, the death grant is considered one of the legal mechanisms to protect their family and ensure its stability and alleviate the consequences left by the risk of death.

Therefore, addressing the basic concepts of this topic at the beginning of its study is an urgent necessity to understand the provisions of this grant and its effectiveness in achieving the objectives for which it was created, starting from the terms: death and death insurance, which form the primary basis for understanding this topic for a good understanding and gradual deepening into its provisions, within the following two sections:

Section One: The Concept of Death as the Beginning of the Right to Benefit from the Death Grant

Death constitutes an inevitable natural event that ends with its occurrence the life of a human being after being born alive. While this term is primarily studied in medical sciences, it has dimensions in other sciences. In legal sciences, the term death has multiple effects, such as the liquidation of inheritance, the expiration of obligations, the entitlement of the rights holders to the death grant (which is the subject of our study), and others, which requires defining the legal meaning of death to control such effects arising from it, which in turn knows two types according to the state of the death event, within the following two branches:

Branch One: The Legal Meaning of Natural Death

The concept of the term death did not pose a problem at the scientific level as a whole. However, scientific and technological development in the field of medicine towards radiation medicine and vital organ transplantation, etc., affected the determination of the criterion for medically declaring a person's death, which raised widespread controversy about determining the time of death among Islamic and legal jurisprudence due to its role in arranging the legal effects for the person.

By referring to the amended and supplemented Algerian Social Insurance Law, we find that it did not include the concept of death as a legal event that constitutes the source of the right to benefit from the death grant. Therefore, we must refer to the legal texts that dealt with the subject of death and relate to the civil status of the person; where Article (25) of the Civil Code states that¹: "The personality of a human being begins with the completion of his birth alive and ends with his death," then Article (26) thereof indicated that: "Birth and death are proven by the registers prepared for that."

By referring to Law No. 18/11, which includes the Health Law², which seeks through its provisions to embody the rights and duties of citizens in the field of health³; we find that the legislator stipulated in Article (200) thereof that: "In the event of a suspicious or violent death or a death in the street, and in the event of a death from a communicable disease that poses a great risk to public health, the concerned doctor shall only issue a certificate to prove death, and shall notify the competent authorities thereof to conduct a forensic medical examination of the body, while respecting the applicable regulatory procedures."

From this text, we understand that the legislator did not provide a definition of death or a criterion for determining the moment of death in this law, but rather focused on stipulating the provisions related to proving death, which was also confirmed by Article (204) thereof, stating that: "Burial shall only take place on the basis of a medical certificate proving death prepared by a doctor according to the modalities specified by regulation. This certificate, prepared according to a model prepared by the competent administration, indicates the cause or causes of death and, if necessary, useful information for public health under conditions that include its confidentiality."

Accordingly, legally; the event of death is considered a legal event that entails its legal effects – including benefiting from the death grant – when it is proven by a medical certificate according to the legal conditions contained in the law related to health and its applicable legislation, and specifically, a study on this

topic concluded that: "... Therefore, a person's death can be medically declared based on the observation of brain death, or death can be declared based on the observation of cessation of breathing and circulation, as is the case in most normal deaths, and each type of death has its own medical certificate and consequences..."⁴

Branch Two: The Legal Meaning of Presumed Death

Here, it is worth noting another type of death that entails legal provisions; including the entitlement of the insured's rights holders to the death grant, which is: presumed death. This legally refers to the case of unconfirmed (uncertain) death, as in the case of the missing person, which Article (109) of the amended and supplemented Family Law defined as⁵: "The missing person is the absent person whose whereabouts are unknown, and whose life or death is unknown, and is not considered missing except by a judgment."

Accordingly; it is not known with certainty whether the missing person is alive or dead, as news of them is cut off in a way that suggests their death, such as someone lost in a war battle or an earthquake⁶.

The absent person is not considered missing by operation of law⁷, because a person is not considered missing except by a judicial judgment of the missing person's death, which the judge does not issue except after four years have passed since their disappearance, at their discretion, in accordance with the text of Article (113) of the amended and supplemented Family Law, which specified the cases in which the judge may rule on the death of the missing person by stating: "A judgment of death may be issued for a missing person in wars and exceptional circumstances after four years of investigation, and in cases where safety prevails; the matter is entrusted to the judge to estimate the appropriate period after four years."

By referring to the provisions of the Insurance Law to research the extent of the rights of the missing person's rights holders, who are presumed dead, to the death grant; we find that the legislator did not address this issue; rather, it built the provisions of death insurance and remained silent without explicitly stating the nature of its condition (natural or presumed), although we believe that the situation of the deceased missing person does not align or conform with the validity of the conditions specified by the legislator for benefiting from the death grant in terms of age, employment or unemployment, and sponsorship...

In reality, applying this provision in the field of insurance law inevitably leads to certain harm to the beneficiaries of the pension, which is their deprivation of the insurance rights arising from the loss of the insured, even though it excluded the category of missing seafarers, by virtue of a circular issued by the Ministry of Social Affairs on: 03/06/1961 under number: 91/09, which includes the provision of the death grant and the transferable retirement pension to the rights holders of missing seafarers, by social security bodies (CNR-CNAS) as a guarantee against loss at sea⁸

Section Two: The Concept of Death Insurance

Death, whether natural or presumed, is one of the risks that threaten human life, exposing those they support to poverty or financial hardship due to the cessation of their source of livelihood upon the death of their provider.

Therefore, comparative legislations have included death among the risks that require insurance to embody the principle of social protection for the family of the socially insured person after their death and to secure them against the negative effects of the risk of death.

Given this situation of death insurance; we will address the concept of death insurance according to the Algerian legislator and its impact on its objective, through the following two branches:

Branch One: The Legal Definition of Death Insurance

Article (02) of Law No. 83/11 concerning social insurance, as amended and supplemented, states that⁹: "Social insurance covers the following risks: illness. - childbirth. - disability. - death."

Based on this text; the legislator included the event of death among the socially insured risks mentioned in this text and its amended and supplemented texts; such as work accidents and unemployment... and others, which was affirmed by the International Labor Organization in International Convention No. 102 of 1952 concerning the minimum standards of social security and ratified by Algeria.

Accordingly; the event of death is a material event that entails legal effects, as it is a force majeure that leads to the end of the employment relationship and the activity of the insured, which socially requires insuring against it to benefit from the death grant in order to protect their dependents from the risks and circumstances following the event of death.

Thus, the death grant can be defined as: "a sum of money granted by the social security fund to the rights holders of the deceased insured immediately upon their death."¹⁰, For salaried workers; it is provided by the National Social Insurance Fund for Salaried Workers (CNAS) to the rights holders of the socially insured person after their death, whether this socially insured deceased person was in service, in a disability pension status, in a retirement pension status, or in a work accident annuity status before their death.

By referring to the legal texts that regulate death insurance in Law No. 83/11 concerning social insurance, as amended and supplemented, we find that they are included in Chapter Four of Part Two related to benefits through four (05) articles that define the provisions related to the following topics:

- The objective of death insurance.
- Rules related to determining the value of the death grant amount and how it is paid.
- The legal status of the insured when benefiting from the death grant.

What is worth noting; is that if we refer to the social insurance law to search for the source of the death grant provided by the National Social Insurance Fund for Salaried Workers; whether it was pure property of the deceased insured or otherwise?

We would find that the social security fund has multiple sources of funding; including a part of the contributions of employers and workers. For social insurance, which includes the death grant, we find that the worker's contribution is estimated at: 1.50% of the contributable wage, and for the total contributions (social security branches), the worker's contribution rate is estimated at: 09% of the contributable wage as well, in addition to the intervention of the state budget and other funding sources (such as: investment income, etc.)¹¹, and therefore the ownership of the grant money belongs to the social security bodies and is not pure property of the insured.

To recall; the right to claim the death grant lapses after a period of four (04) years from the date of death. However, this statute of limitations is interrupted whenever one of the beneficiaries claims the right to the grant during this period, provided that a new period of four (04) years begins from the date of this claim. If the date of death is determined by a judicial decision; then the statute of limitations - four (04) years - begins from the date of the judgment of death, as in the case of the missing person.

What should be noted; is that the statute of limitations for the right to benefit from the death grant does not apply to minor children except from the date they reach the age of civil majority, which is nineteen (19) years of age.

Branch Two: The legal objective of death insurance settles the issue of the legal characterization of the death capital grant.

The first thing stipulated by the legislator in the Social Insurance Law in the chapter titled “Death Insurance” is “the objective of this insurance,” where Article (47) of Law No. 83/11 relating to social insurance, as amended and supplemented, provides that: “Death insurance aims to benefit the rights holders of the deceased insured, as defined in Article 67 below, from the death grant.”

Accordingly, the rights holders of the deceased insured benefit from a grant called “the death grant,” also referred to as “the death capital.”

This grant aims to cover the damage resulting from the risk of death, given that he was supporting them (his rights holders), and that the risk of death will expose them to psychological, social, and economic harms; consequently, death insurance aims to avert several harms, including:

- Covering the expenses of preparing the deceased, burial, and condolence costs, thereby alleviating for the deceased’s rights holders the cost of funeral ceremonies, especially if their circumstances are straitened; it may also help them cover the deceased’s debts—if any.
- It may also be a cause for consoling the moral state of the insured’s rights holders and a source of livelihood that supports them and helps them build their future.

For this reason, the legislator enshrined the “principle of immediacy” in the payment of the death capital amount to its beneficiaries upon the death of their insured in paragraph three of Article (48) of Law No. 85/11, as amended and supplemented, relating to social insurance; that the death amount be paid in one lump sum upon the death of the insured and without delay, stating: “The death amount shall be paid in a single lump sum immediately upon the death of the insured.”

In truth, the legislator’s determination of the objective and of the persons who benefit from the death capital grant has settled a legal issue of the utmost religious, legal, and consequently social importance, being money that becomes due after the death of the insured; namely, the issue of the religious and

consequently legal characterization of the death capital grant—whether it is an inheritance (in which case the provisions of inheritance apply upon its division) or a grant (in which case the legislator determines its beneficiaries). This characterization has a role in quenching the fire of discord among members of the same family that may flare up among them because of money after the death of their ancestor, and in preserving the cohesion of their bonds and the stability of society as a whole. A comparative study between Sharia and law on this issue concluded that the strong view is the one that considers that the death amount is a grant to whomever it is given and not an inheritance¹², relying on the extent of the deceased's ownership of the money, which consists only of contributions to the social security fund.

Chapter Two: Legal Controls for Entitlement to the Death Capital Grant

The death capital grant constitutes financial support to which the rights holders of the deceased socially insured person are entitled after his death, embodying a form of state social protection for them. However, this entitlement is subject to controls specified by the legislator within its legal framework, primarily relating to the rules of the insured's entitlement to this grant, the rules for qualifying as a beneficiary, and the procedures and deadlines specified for it, in addition to controls for determining its value and disbursing it to beneficiaries.

These rules are of great importance in achieving a balance between protecting beneficiaries after the death of the one who used to support them and protecting the funds of the fund to ensure its continued existence.

We present the controls for entitlement to the death capital grant for salaried workers and clarify them by text and analysis through the following two demands:

Section One: Legal Controls Related to the Legal Status of the Deceased Insured

For the deceased insured to be entitled to the death grant for his beneficiaries, a set of controls in the form of conditions must be met: first, his status, then the period of contribution—or what is expressed as his period of activity—according to the law relating to social insurances, then determining the status of the insured with respect to his job; whether he was in service or in other situations specified by the legislator, such as disability or retirement or otherwise....

We will address these controls in the following two branches, with analysis to deduce the controls required by the legislator for insurance against the risk of

death, because in their absence the rights holders of the insured are deprived of this insurance.

Branch One: The Control of the Period of Work Preceding Death

The right to benefit from the death grant is subject to a general rule to which an exception applies; we present them as follows:

First: The General Rule: The right to benefit from the death grant is subject to the condition of work, without this condition being related to any condition of liability, which is what Article (53) of Law No. 83/11 relating to social insurance, as amended and supplemented¹³, provides: “The right to benefit from the death capital arises if the insured has worked fifteen (15) days or one hundred (100) hours during the three (3) months preceding the date of death.”

What is inferred from this article is that the legislator suspends the right of the rights holders of the deceased insured to benefit from the death capital grant on an essential condition relating to the professional status of the deceased insured, whereby the latter must have actually performed his work before his death at least during the period specified by the legislator by virtue of this text, which is a period of fifteen (15) days or one hundred (100) hours during the three months preceding death. Accordingly, the right to benefit from the death capital grant arises as soon as the insured has worked for the period specified by the legislator in this text.

It is a logical condition introduced by the legislator so as to ensure—at least—the employer’s payment of contribution installments to social security, and on the other hand, the condition of working for a specified period enables the insured to have the right to benefit from the in-kind benefits of disability insurance¹⁴.

We note in this regard that the provisions of this rule apply in the case of dual affiliation, which is the case where the insured was an employee and at the same time worked for his own account before his death, such that his rights holders are entitled to obtain the death grant from the National Social Insurance Fund for Salaried Workers (CNAS) upon fulfillment of the condition of the period of work mentioned in the above legal text with respect to the employment activity, in addition to obtaining the death grant paid by the Social Security Fund for Non-Salaried Workers with respect to his private (independent) activity according to the controls of social security legislation, among which: if the value of the grant to be paid by the National Social Insurance Fund for Salaried Workers is by a

greater and wide difference than the value to be paid by the Social Security Fund for Non-Salaried Workers, the payment shall be from the first fund and vice versa. If the two values are close, the grant shall be paid by the fund that carries the higher value and the other fund shall complete the remaining value¹⁵.

Exception to the General Rule: The provisions of the general rule relating to the period of work for benefiting from the death grant contained in Article (53) of Law No. 83/11 relating to social insurance, as amended and supplemented, do not apply to the case of a fatal work accident, when addressing the provisions of benefits in the field of work accidents and occupational diseases as provided in Article (27) of Law No. 83/13, as amended and supplemented, relating to work accidents and occupational diseases¹⁶, stating: “The right to benefits, whatever their nature, arises without the condition of a period of work.”

Branch Two: The Legal Controls Relating to the Status of the Deceased Insured

Article (51) provides: “The rights holders of a disability pension holder, or a retirement pension, or an early retirement pension, or a work-accident annuity corresponding to a work-disability rate of at least 50 percent, as defined in Article 67 of this law, under the conditions stipulated in Articles 49 and 50 above, shall benefit from a death capital equal to the annual amount of the disability pension, or the retirement pension, or the early retirement pension, or the work-accident annuity, provided that this amount is not less than the minimum provided for in Article 41 of this law.”

Based on the text of this article and by contrary implication, we find that the legislator did not stipulate that benefiting from the death capital grant requires that the insured’s death occur during his period of service; rather, he expanded the scope of benefit based on the insured’s status, such that the insured is entitled to benefit even if death occurs while he is in one of the situations stipulated in this legal text:

A holder of a disability pension¹⁷, or a retirement pension, or an early retirement pension¹⁸, or in the case of a work-accident annuity, where the work-disability rate is at least 50 percent.¹⁹

In addition to the following cases:

- A prisoner performing penal work.
- A beneficiary of unemployment-insurance compensation.

- A person insured in social security who was employed as part of a pre-employment period.

Section Two: Legal Controls for Benefiting from the Death Grant

The death grant is a form of social solidarity and support provided by the state through the Social Security Fund for Employees to the dependents of the insured person after their death, in the form of a financial sum.

Through this requirement, light will be shed on the controls governing the benefit from the death grant, defining it in terms of the persons entitled to benefit (in the first section) and in terms of the grant's value and its disbursement to them (in the second section). This aims to clarify and facilitate the understanding of the procedures by the dependents, thereby easing the process of obtaining it.

Branch One: Legal Controls for Determining the Beneficiaries of the Socially Insured Person's Rights After Death

Initially, by the dependents of the insured person, we mean the individuals specified by the legislator under legal conditions to benefit from their insured's death grant. This requires the availability of official documents proving the beneficiary's status, as required by the National Social Insurance Fund for Employees, which is the competent authority for its disbursement.

This section will address the categories of persons who are dependents of the socially insured person and the official documentation required to prove this status, in the following two elements:

First: Legal Controls for Determining the Categories of Persons Who Are Dependents of the Socially Insured Person

The legislator has specified the categories of persons who are dependents of the deceased socially insured person in Article (47) of Law No. 83/11 concerning Social Insurance, as amended and supplemented. It refers to the dependents of the insured person by citing Article (67) of the same law, stating: "The purpose of death insurance is to provide the dependents of the deceased insured person, as defined in Article 67 below, with a death grant."

This is confirmed by Article (49) of the same law²⁰, as amended and supplemented by Article (17) of Ordinance No. 96/17²¹, which states: "The death grant capital is paid to the dependents of the deceased as defined by Article 67 of this law."

Referring to Article (67) of Law No. 83/11 concerning Social Insurance²², as amended and supplemented, we find it stipulates that: "Dependents are intended to be:

The spouse of the insured person. However, the spouse is not entitled to benefits in kind if they are engaged in a paid professional activity. If the spouse is also an employee, they may benefit from the allowances as a dependent when they do not meet the conditions for entitlement through their own activity.

Dependent children under the age of eighteen (18), according to the social security regulations.

Also considered dependent children are:

Children under the age of twenty-five (25) who have an apprenticeship contract that provides them with a wage less than half of the guaranteed national minimum wage.

Children under the age of twenty-one (21) who are continuing their studies. If medical treatment began before the age of twenty-one (21), the age condition is not considered until the end of the treatment.

Dependent female children and third-degree collaterals with no income, regardless of their age.

Children, regardless of their age, who are unable to engage in any paid activity due to a disability or chronic illness.

The status of dependent is retained for children who meet the required age conditions but had to stop their apprenticeship or studies due to their health condition.

The ascendants of the insured person or their spouse's ascendants are considered dependents when their personal resources do not exceed the minimum amount of a retirement pension.

The modalities for the application of this article shall be determined by regulation."

It is understood from this text that for a person to be classified as a dependent of the insured person in order to benefit from the death grant, they must meet one of the conditions mentioned in the aforementioned article.

Based on this text, the categories of dependents are defined in the following three classes:

Class One: Spouse(s) of the Insured Person: Even if they are engaged in a paid professional activity or are a recipient of a social security pension.

Class Two: Dependent Children and Relatives, as defined in social security legislation:

Children under the age of eighteen (18).

Children under the age of twenty-one (21) who are pursuing university, vocational, or professional education or similar.

Children under the age of twenty-five (25) who have an apprenticeship contract providing them with a wage less than half of the guaranteed national minimum wage.

Dependent female third-degree collaterals with no income, regardless of their age.

Children, regardless of their age, who are unable to engage in any paid professional activity due to a chronic illness or permanent disability.

This class also includes a widowed (or divorced) daughter who is not engaged in an activity, provided that the divorce decree and/or the death of her husband occurred before the death of the insured person. This applies even if the divorce decree of the insured's daughter was issued or her husband's death occurred after the death of the insured person but before the claim for the death grant was made. This is based on the instruction issued by the General Directorate of the National Social Insurance Fund for Employees on 23/02/2022 concerning this matter.

Class Three: Ascendants of the socially insured person and their spouse's ascendants.

However, the dependents of an insured person who was subject to a measure of deprivation of liberty and who dies during their imprisonment without performing penal labor are not entitled to the death grant.

Similarly, the dependents of a retirement allowance recipient are not entitled to the death benefit.

Second: Required Legal Documents for Entitlement to (Obtaining) the Death Grant

It is not sufficient for a person to acquire the status of a beneficiary to be entitled to the death grant; this status must be proven with the legally required official document. Upon examining the set of legally required documents, we find that some are general and must be included in the grant application file, in addition to the necessity of providing the document that proves the specific status of each beneficiary, which will be presented as follows:

1. General Documents Required for All Categories of the Socially Insured Person:

Completion of the "Death Grant Application" form, available at the social security authority, signed and authenticated by the accredited services, accompanied by a list of the required documents to be submitted.

In the case of multiple beneficiaries, a single application should be submitted where possible.

A copy of the death certificate of the socially insured person.

The social security registration card or the social security card of the insured person.

A family civil status card (family certificate) to prove the beneficiary's status.

A certificate of employment and wages for the twelve (12) months preceding the date of the insured person's death, and a certificate indicating the annual amount of the retirement pension (depending on the insured's status before death).

2. Specific Documents for Each Class of the Socially Insured Person:

For the Spouse(s) Class: An official marriage certificate must be provided; an unregistered customary marriage is not recognized. In the case of polygamy, a single death grant application is filed, although each wife may also submit an individual application.

For the Children and Dependents Class: A school certificate for school-attending children between the ages of eighteen (18) and twenty-one (21).

An apprenticeship contract for children under an apprenticeship contract, aged between eighteen (18) and twenty-five (25), whose wage is less than half of the guaranteed national minimum wage.

A medical certificate:

For children—regardless of their age—who suffer from a permanent disability or chronic illness that prevents them from engaging in any work, as well as for children who have met the legal age requirement but have stopped their studies or apprenticeship due to poor health. In this case, the medical certificate must be submitted to the consulting physician to decide whether the disability or chronic illness of the person concerned makes it permanently impossible for them to engage in any paid activity.

For children who have met the required age condition and were forced to stop their apprenticeship or studies due to their health condition.

A certificate of dependency (Kafala) for dependent female relatives without income, and a certificate of non-affiliation with the National Social Insurance Fund for Employees (CNAS) and the Social Security Fund for Non-Employees (CASNOS).

A certificate of non-remarriage for a divorced daughter.

For the Ascendants Class: A certificate proving that they do not receive any income exceeding seventy-five (75) percent of the guaranteed national minimum wage, along with a certificate of non-affiliation with the Social Security Fund for Employees (CNAS) and the Social Security Fund for Non-Employees (CASNOS).

Branch Two: Legal Controls for Determining the Value of the Death Grant and its Disbursement to Beneficiaries

Since the death grant capital is a benefit covering the risk of death, the legislator has established rules for calculating its cash value, as well as rules for how it is disbursed to its beneficiaries, based on Articles (48) and (51) of Law No. 83/11 concerning Social Insurance, as amended and supplemented, as follows:

First: Legal Controls Related to the Value of the Death Grant

Initially, the legislator has set the controls for the value of the death grant based on the professional status of the insured person, whether they were in service before their death, or in a state of disability, retirement, or receiving an annuity for a work accident, as follows:

Case One: The Insured Person was in Service Before Death.

Article (48) of Law No. 83/11 concerning Social Insurance, as amended and supplemented by Article (16) of Ordinance No. 96/17, which amends and supplements the same law, stipulates that: "The amount of the death grant capital is estimated at twelve (12) times the most advantageous monthly salary received during the year preceding the death of the insured person, which was used as the basis for calculating contributions. In no case can this amount be less than twelve (12) times the amount of the guaranteed national minimum wage. The death grant capital is paid in a single lump sum immediately after the death of the insured person."

Based on this legal text, the rule for calculating the value of the death grant for an employed insured person is determined as: the value of the monthly salary multiplied by twelve (12) times, meaning mathematically: (monthly salary amount $\times$ 12).

However, it is stipulated that the monthly salary amount used as the basis for calculating the contribution to the National Social Insurance Fund for Employees is the most advantageous monthly salary received by the insured person during the year preceding their death.

Based on this legal rule, the amount of the death grant cannot be less than the guaranteed national minimum wage (SMIG) multiplied by twelve (12) times, which the legislator confirmed in the same legal text above.

Let's provide an example of the application of this rule as follows: The most advantageous monthly salary received by the insured person during the year preceding his death is: 53,000 DZD, and the guaranteed national minimum wage (SMIG) is: 18,000 DZD. The value of the death grant will be: $53,000 \times 12 = 636,000$ DZD. Therefore, it will not be less than the guaranteed national minimum wage: $18,000 \times 12 = 216,000$ DZD.

Case Two: The Insured Person was Disabled, Retired, or Receiving a Work Accident Annuity Before Death.

Article (51) of Law No. 83/11 concerning Social Insurance, as amended and supplemented by Article (18) of Ordinance No. 96/17, which amends and supplements the same law, stipulates that: "The dependents of a recipient of... are entitled to a death grant capital equal to the annual amount of the disability pension, retirement pension, early retirement pension, or work accident annuity, provided that this amount is not less than the minimum stipulated in Article 41 of this law."

Accordingly, based on this text, the rule for calculating the value of the death grant for an insured person receiving a disability pension, early retirement, or a work accident annuity is the annual amount of the pension (the monthly pension amount multiplied by twelve - the number of months in a year), meaning mathematically: (monthly pension amount $\times$ 12), for each case separately.

The legislator has confirmed, regarding the application of this rule, its minimum limit—as was done for the insured person in service—that it should not be less than the minimum annual amount of the retirement pension specified in Article (41) of this law.

It is worth mentioning that the monthly salary amount used as the basis for calculating the contribution to the Social Security Fund for Employees is net and free of certain elements specified by the instruction issued by the National Social Insurance Fund on 19/08/2009 concerning the conditions for benefiting from the death grant, which are excluded in the calculation of the accredited monthly salary. These are:

The monthly supplementary allowance (ICPR).

The increase for a dependent spouse.

The increase granted for a third party.

The 05% increase.

The 01/2012 increase.

Second: Rules for the Disbursement of the Death Grant

The disbursement of the death grant is subject to a set of rules specified by legal texts, which we present as follows:

The death grant is paid to the beneficiaries in a single lump sum immediately after the death of the insured person, in accordance with the last paragraph of Article (48) of Law No. 83/11 concerning Social Insurance, as amended and supplemented. This occurs after the date of submitting the aforementioned death grant application, as it is not a periodic grant but is established once and within a legally specified period, according to Article (48), third paragraph, of Law No. 85/11, as amended and supplemented, concerning Social Insurance, which states: "The death capital is paid in a single lump sum immediately after the death of the insured person."

It should be noted that the death grant amount is paid to the beneficiaries by check or through the postal or bank account of the beneficiaries.

In the case of multiple beneficiaries, the death grant amount is divided equally among them, without discrimination based on gender (between male or female, as in inheritance), age, or degree of kinship with the insured person. This is in accordance with Article (50) of Law No. 83/11 concerning Social Insurance, as amended and supplemented, which states: "In the case of multiple dependents, the death grant is distributed among them in equal installments."

If other beneficiaries appear after the date of payment, their share of the due death grant must be paid to them, without making this payment conditional on the initial beneficiaries returning their share of the unduly paid death grant. The initial beneficiaries bear full responsibility for returning the amount they received incorrectly. If they refuse an amicable settlement, the case is referred to the competent court.

In the case of minor beneficiaries, the death grant is paid to their legal representative.

In the event of the death of a beneficiary after submitting the application to benefit from their insured's death grant to the Social Security Fund for Employees and before receiving their share, this share (the amount) is paid to their heirs in accordance with the law, as it is an acquired right. If the opposite occurs, where the beneficiary dies before claiming their share of the grant, their heirs may not claim it.

The death grant is non-transferable and non-seizable, in accordance with Article (88) of Law No. 83/11 concerning Social Insurance, as amended and supplemented²³, which states: "Benefits in kind and the death grant capital are not subject to assignment or seizure."

Therefore, under this provision, a beneficiary may not transfer the death benefit to another beneficiary, and it may not, under any circumstances, be subject to seizure by a third party, such as a creditor

Conclusion

At the conclusion of this study on the various legal and regulatory aspects of the death grant for salaried employees, it has become clear to us that this grant is a fundamental measure within the social security system, reflecting the state's policy of embodying social protection. This is a positive direction that contributes to achieving social stability for the dependents of the socially insured and mitigates the negative economic impacts resulting from the risk of death. This is demonstrated through a set of findings, the most important of which are listed below:

The death grant is a financial sum in the form of a grant, not an inheritance or a monetary compensation.

The insured person must meet a legally specified period of contribution related to the duration of work. Consequently, they must either be in a state of active service, or in a state of disability, retirement, early retirement, or receiving a work accident annuity.

The beneficiaries of the death grant are the dependents of the insured person, who are defined by legal controls, and are not heirs determined by the provisions of Sharia law based on blood kinship with the insured.

The value of the death grant is determined based on the insured person's net salary, exclusive of allowances. This applies even in the other cases of pensions for disability, retirement, early retirement, and work accident annuities, according to the rule of the salary multiplied by twelve.

It is disbursed to the beneficiaries according to legal controls, the most important of which are: immediately upon the death of the insured, in a single lump sum, and distributed equally among them. These are legislative rules with administrative application.

Based on this study, we propose that the legal framework for the death grant for salaried employees be enhanced with the following suggestions:

Incorporate the risk of "disappearance" (loss) into the scope of social risks. Consequently, the dependents of a missing (presumed deceased) insured person should be able to benefit from the death grant. This was advocated by Professor Samati Al-Tayeb, who suggested providing them with periodic allowances until a judicial declaration of death is issued, with the possibility of recovery if the person returns.

Re-evaluate the eligibility criteria for the death grant to include the person responsible for the family (the social provider), as mentioned earlier. This is a pressing necessity to ensure the achievement of its humanitarian and social objectives in a manner that consolidates the principle of social justice and embodies the values of solidarity and social support. Reality has often proven otherwise in many social cases, where the person who bore the funeral expenses and others—even before the death of the insured in case of illness—is someone not legally entitled to benefit.

Amend the disbursement mechanisms to expedite and ensure its timely delivery to the beneficiaries. This can be achieved by replacing the application-based mechanism with automatic payment, especially in clear-cut cases where the insured's file is already with the authorities. This would speed up access with full transparency and enhance trust in state institutions.

The supervisory authorities should continue to review, develop, and update the legislation and procedures related to the death grant. This should be done in a way that enshrines social justice and achieves economic well-being by studying special cases individually and then elevating the instructions issued by the social security administration into applicable laws.

Finally, we believe that the achievement of the legal objectives of the provisions governing the death grant—benefiting the dependents of the socially insured—is contingent not only on amending some of its related texts but also on the adequacy of the social security funds' coverage for this grant to its beneficiaries. Therefore, the legislator must be keen to expand the sources of funding for social security funds to cover such grants, while ensuring the collection of contributions.

References

- ¹ Ordinance No. 75-58 of 26/09/1975, containing the Civil Code, Official Gazette No. 78 of 1975, as amended and supplemented.
- ² Law No. 18-11 of 02/07/2018, relating to Health, Official Gazette No. 46 of 2018.
- ³ See: Article 1 of Law No. 18-11 relating to Health.
- ⁴ Mira, Walid, "Determining the Time of Death and its Impact on Rights in Light of Medical Developments," *Al-Ustath Al-Bahith Journal for Legal and Political Studies*, Volume 06, Issue 02, December 2021, <https://www.asjp.cerist.dz/>, p. 1349.
- ⁵ Algerian Family Code Law No. 84-11 of 09 June 1984, containing the Family Code (Official Gazette No. 24 of 1984), as amended and supplemented by Ordinance No. 05-02 of 27 February 2005 (Official Gazette No. 15 of 2005).
- ⁶ Mohammed Al-Saghir Baali, *Introduction to Legal Sciences (Theory of Law - Theory of Right)*, Dar Al-Uloom for Publishing and Distribution, 2006, p. 136.
- ⁷ Article (110) of the Family Code defines the "absentee" as: "A person who is prevented by compelling circumstances from returning to his place of residence or managing his affairs himself or through an agent for a period of one year, and whose absence causes harm to others, is considered as a missing person."
- ⁸ Samati, Al-Tayeb, *Social Insurance in the Field of Social Security*, Dar Al-Huda, Ain M'lila, Algeria, 2014, p. 199 et seq.
- ⁹ It is worth noting here that despite the multiple and successive amendments to the Social Insurance Law, the subject of death insurance was not amended or supplemented except by Ordinance No. 96-17, which amends and supplements Law No. 83-11 concerning Social Insurance. It amended and supplemented the provisions (texts) without affecting the subject matter—a point we will address in each element.
- ¹⁰ Kheireddine Nezlioui, "The Deceased in the Provision of the Death Grant," *Algerian Journal of Islamic Studies*, Volume 02, Issue 01, <https://www.asjp.cerist.dz/>, p. 137.
- ¹¹ See: People's Democratic Republic of Algeria, Ministry of Labour, Employment and Social Security: "The National Policy for Social Security," undated, article published on the website of the Ministry of Labour, Employment and Social Security at the link: <https://shorturl.at/ns69p>.
- ¹² Kheireddine Nezlioui, op. cit., p. 148.
- ¹³ The text of Article (53) of the Social Insurance Law was amended by Ordinance No. 96-17, amending and supplementing Law No. 83-11, after the original text in the same law was as follows: "The right to the death grant for the worker's dependents arises from the first day of his actual commencement of work."
- ¹⁴ Samati, Al-Tayeb, op. cit., p. 85.
- ¹⁵ This conclusion is drawn from a joint instruction issued by the two funds (CNAS) and (CASNOS), supported by examples.
- ¹⁶ Law No. 83-13 concerning Work Accidents and Occupational Diseases, Official Gazette No. 28 of 1983, as amended and supplemented.
- ¹⁷ This consists of granting a pension to a socially insured person under the age of 60 who suffers from a disability that impairs their capacity to work or earn by at least 50%. See: "The National Policy" article, op. cit.

- ¹⁸ The case of retirement is regulated by its own law, which determines the legal age of retirement, the cases or types of retirement, and the benefits the retiree receives—according to the state's national social security policy. The retiree receives a financial sum, which is the pension from the National Retirement Fund (CNR).
- ¹⁹ This is the case of a worker who suffered a work accident during their service that caused a work disability, whereupon they receive a periodic sum called a work accident annuity.
- ²⁰ Article (49) of Law No. 83-11 concerning Social Insurance states: "The death grant is paid to the dependents of the deceased." The purpose of the amendment here was to harmonize the legal texts by defining the list of dependents in a legal text to avoid opening the door to other interpretations, such as heirs.
- ²¹ Ordinance No. 96-17 of 06/07/1996, amending and supplementing Law No. 83-11 concerning Social Insurance, Official Gazette No. 42 of 1996.
- ²² The text of Article (67) in Law No. 83-11 concerning Social Insurance was amended by Ordinance No. 96-17.
- ²³ Amended by Article (44) of Ordinance No. 96-17.