

**ENQUERY: An employee joined and passed away within 5 months. Is his family eligible for gratuity in this case?**

**RESPONSE: Yes, the family of the employee who passed away after joining and serving for 5 months is eligible for gratuity. Here is a detailed explanation based on the provisions of The Payment of Gratuity Act, 1972:**

### **1. Section 4(1) - Gratuity on Death or Disablement:**

**Gratuity Payable on Death:** According to Section 4(1) of the Act, gratuity is payable to an employee on the termination of employment due to death or disablement. The Act specifically waives the requirement of completing 5 years of continuous service in cases of death or disablement.

**Gratuity in Case of Death:** Since the employee passed away within 5 months of joining, the family (or legal heirs) is still entitled to gratuity, irrespective of the 5-year continuous service requirement. This is a specific provision under Section 4(1) that allows the family to receive gratuity if the termination is due to death.

### **2. Section 4(2) - Calculation of Gratuity:**

**Proportional Gratuity for Less Than 1 Year:** Section 4(2) states that gratuity is payable for every completed year of service or part thereof in excess of six months. However, in this case, the employee worked for only 5 months, which is less than 6 months.

**Application of Gratuity Formula:** Since the employee worked for less than 6 months, the specific provision regarding "part of the year in excess of six months" under Section 4(2) does **not apply** directly here. However, the family is still eligible for **proportional gratuity** based on the actual period worked. The gratuity will be calculated for **5 months of service**, which will be proportional to the full year's gratuity amount.

### **3. Gratuity Calculation:**

**Gratuity Formula:** According to Section 4(2), the gratuity is calculated as 15 days' wages for each completed year of service or part thereof in excess of six months.

In this case, since the employee worked for 5 months (less than 6 months), the gratuity will be calculated proportionately.

#### **Formula for Gratuity:**

■ **Gratuity = (15 days' wages × number of months worked)/12**

■ **For example, if the last drawn wages were 30,000 per month:**

**Daily wage = 30,000 ÷ 30 = 1,000**

■ **Gratuity for 5 months = (15 ×**

**1,000 × 5) ÷ 12 = \*6,250**

■ **So, the family would receive 6,250 as gratuity for the 5 months of service worked.**

### **4. Payment to Nominee or Heirs:**

If the employee had nominated someone, the gratuity will be paid to the nominee. If no nomination was made, the gratuity will be paid to the legal heirs.

If any heirs are minors, their share will be deposited with the controlling authority, which will invest the amount until they reach the age of majority.

**Conclusion:**

Even though the employee did not complete 6 months of service, **the family is entitled to gratuity due to the employee's death**, under the specific provisions of **Section 4(1)**. The gratuity will be **calculated on a pro-rata basis for the 5 months of service**. The family will receive the gratuity amount, which will be based on the last drawn wages and the proportional calculation for the period worked.

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