33 USC Chapter 18

§ 909. Compensation for death

If the injury causes death, the compensation therefore shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

(a) Reasonable funeral expenses not exceeding $ 3,000.

(b) If there be a widow or widower and no child of the deceased, to such widow or widower 50 per centum of the average wages of the deceased, during widowhood, or dependent widowerhood, with two years' compensation in one sum upon remarriage; and if there be a surviving child or children of the deceased, the additional amount of 16 2/3 per centum of such wages for each such child; in case of the death or remarriage of such widow or widower, if there be one surviving child of the deceased employee, such child shall have his compensation increased to 50 per centum of such wages, and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 50 per centum of such wages increased by 16 2/3 per centum of such wages for each child in excess of one: Provided, That the total amount payable shall in no case exceed 66 2/3 per centum of such wages. The deputy commissioner having jurisdiction over the claim may, in his discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one surviving child of the deceased, but no widow or widower, then for the support of such child 50 per centum of the wages of the deceased; and if there be more than one surviving child of the deceased, but no widow or dependent husband, then for the support of such children, in equal parts 50 per centum of such wages increased by 16 2/3 per centum of such wages for each child in excess of one: Provided, That the total amount payable shall in no case exceed 66 2/3 per centum of such wages.

(d) If there be no widow or widower or child, or if the amount payable to a widow or widower and to children shall be less in the aggregate than 66 2/3 per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, and any other persons who satisfy the definition of the term "dependent" in section 152 of title 26 of the United States Code [26 USC § 152], but are not otherwise eligible under this section, 20 per centum of such wages for the support of each such person during such dependency and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between 66 2/3 per centum of such wages and the amount payable as hereinbefore provided to widow or widower and for the support of surviving child or children.

(e) In computing death benefits, the average weekly wages of the deceased shall not be less than the national average weekly wage as prescribed in section 6(b) [33 USC § 906(b)], but--

(1) the total weekly benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefit which the deceased employee would have been eligible to receive under section 6(b)(1) [33 USC § 906(b)(1)]; and

(2) in the case of a claim based on death due to an occupational disease for which the time of injury (as determined under section 10(i) [33 USC § 910(i)] occurs after the employee has retired, the total weekly benefits shall not exceed one fifty-second part of the employee's average annual earnings during the 52-week period preceding retirement.

(f) All questions of dependency shall be determined as of the time of the injury.

(g) Aliens: Compensation under this chapter [this Act] to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the injury, and except that the commission [Secretary of Labor] may, at its option or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the commission [Secretary of Labor].