



HEAD OFFICE

Johannesburg

2nd Floor, Sandown House
Sandton Close 2 Sandton, 2196
PO Box 651826, Benmore, 2010
Tel (011) 884-8454 □ Fax (011) 884-1144
E-Mail: enquiries-jhb@pfa.org.za

Cape Town

2nd Floor, Oakdale House, The Oval
Oakdale Road, Newlands, 7700
P O Box 23005, Claremont, 7735
Tel (021) 674-0209 □ Fax (021) 674-0185
E-mail: enquiries@pfa.org.za
Website: www.pfa.org.za

Please quote our reference: PFA/FS/6784/2006/NVC

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 of 1956 (“the Act”): A M Shabalala (“the complainant”) v The Grain Industry Provident Fund (“the respondent”)

1. Introduction

- 1.1 The complaint concerns the methods of payment of the complainant and her grandchild’s benefits which became due after the death of her husband.
- 1.2 The complaint was received on 9 January 2006 and a letter acknowledging receipt thereof was sent to the complainant on 18 January 2006. On the same date a letter was dispatched to the first respondent requesting it to submit a response to the complaint by 8 February 2006. The respondent requested an extension and its response was received on 8 March 2006. On 22 March 2006 the complainant’s reply to the response was requested by 5 April 2006. The complainant’s reply was received on 31 March 2006.
- 1.3 After considering the written submissions before me, it is considered unnecessary to hold a hearing in this matter. My determination and reasons therefor appear below.

2. Complaint

- 2.1 The complainant is dissatisfied that the respondent paid her share of the death benefit, R203 168.00, less tax, allocated to the complainant after the death of her husband, Mr T T Shabalala (“the deceased”) on 20 February 2005, to ABSA Trust on her behalf. The complainant requests this tribunal

M Mohlala (Adjudicator), N Jeram (Deputy Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), L Shrosbree (Snr Assistant Adjudicator), Z Camroodien (Snr Assistant Adjudicator), F Mtayi (Snr Assistant Adjudicator), K MacKenzie (Snr Assistant Adjudicator), R Maharaj (Snr Assistant Adjudicator), N van Coller (Assistant Adjudicator), L Mbalo (Assistant Adjudicator), V Abrahams (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), T Nekile (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator), N Sihlali (Assistant Adjudicator), S Mothupi (Assistant Adjudicator)

Office Manager: L Manuel

to assist her to have the payment to the trust company reversed, and paid directly to her instead.

- 2.2 The benefit of R17 599.04, payable by the fund, allocated to the complainant's grandchild, K K Shabalala, was invested with First National Bank, from which only the interest of R86.79 per month is payable.
- 2.3 The complainant states that she has not been receiving any income from this investment and she wants the full benefit to be paid to her in her capacity as the caregiver of the child.
- 2.4 In the complainant's reply to the response, she queried the calculation of the benefit allocated to her by the respondent.

3. Response

- 3.1 ABSA Consultants and Actuaries (Pty) Limited ("ABSA") the fund's consultant, states that the trust into which the complainant's full benefit was paid, was terminated. After the deduction of two withdrawals made by the complainant from the trust, the net benefit of R91 812.21, was paid directly to her on 5 May 2006.
- 3.2 According to ABSA, the benefit paid to the complainant was calculated as follows:

"Member's annual pensionable salary as at date of death	R 29 023.68
Seven times annual pensionable salary (R29 023.68 x 7)	R203 165.76
Member's share of fund as at date of death	R 29 019.82
Lump sum death benefit was therefore seven times annual pensionable salary which amounted to R203 165.76	
Gross benefit payable	R203 165.76
Less: Tax	R 22 188.16
Net benefit payable	R180 977.60"

- 3.3 ABSA states that the benefit allocated to the complainant's grandchild was paid in terms of a separate group life scheme, under the control of the deceased's employer, Senwes Limited, and will apparently be retained by First National Bank on behalf of the child.

4. Determination and reasons therefor

- 4.1 The complainant advised this office in her letter dated 30 May 2006 that she has received the full benefit from ABSA Trust. This aspect of the complainant's complaint has therefore been resolved. The complainant subsequently raised her concern about the calculation of the amount paid

to her, and this office obtained ABSA's response in this regard, as set out in paragraph 3.2. Rule 8.1 governs the calculation of the death benefit as follows:

"A lump sum benefit equal to the greater of:

- (a) the deceased MEMBER'S EQUITABLE SHARE in the FUND as at the date of death, or
- (b) an amount equal to seven times the deceased MEMBER'S annual PENSIONABLE SALARY as at date of his death,

shall be paid by the FUND".

4.2 The complainant received the member's annual salary of R29 023.68 times seven, being R203 165.76, which is greater than his equitable share of R29 019.82. I am satisfied that the respondent calculated the death benefit correctly in terms of rule 8.1.

4.3 From the documents submitted by the complainant and ABSA, it is evident that apart from the death benefit lump sum payable by the respondent after the death of the complainant's husband, a further amount of R87 072.00, equating to three times the deceased's annual salary, became payable by a group life benefit scheme, in terms of which R17 599.04 was allocated to her grandchild. As this benefit is not payable to the deceased's dependants in terms of the rules of the respondent, but in terms of a group life scheme, which is not a pension fund, and does not fall under the Act, I do not have jurisdiction to investigate this aspect of complainant's complaint. In this regard she may approach the Ombudsman for Long-term Insurance, whose contact details appear at the foot of this letter.

5. **Relief**

5.1 The complaint is dismissed.

Dated at Cape Town on this the day of 2007.

Yours faithfully

Mamodupi Mohlala
Pension Funds Adjudicator