

Askarova A.O.

**To the question of satisfactory  
of injures, caused to health of  
employee**

This article discusses the concept and procedure of compensation for harm caused to life and health of employees in the performance of labor (service) duties.

**Key words:** labor law, labor law, harm the life, health, employee, employer.

---

Аскарова А.О.

**Қызметкерлердің өмірі мен  
денсаулығына келтірілген зиян  
үшін өтемақы төлеу мәселелері**

Бұл мақалада қызметкерлердің еңбек (қызметтік) міндеттерін орындау кезінде өмірі мен денсаулығына келтірілген зиян үшін өтемақы тұжырымдамасы мен тәртібі талқыланады.

**Түйін сөздер:** еңбек құқығы, еңбек заңнамасы, зиян келтіруі, денсаулық сақтау, қызметкер, жұмыс беруші.

---

Аскарова А.О.

**К вопросу о возмещении  
вреда, причиненного здоровью  
работника**

В данной статье рассматриваются понятие и порядок возмещения вреда, причиненного жизни и здоровью работника при исполнении им трудовых (служебных) обязанностей.

**Ключевые слова:** трудовое право, трудовое законодательство, вред, жизнь, здоровье, работник, работодатель.

**TO THE QUESTION  
OF SATISFACTORY OF  
INJURES, CAUSED TO  
HEALTH OF EMPLOYEE**

When causing to compensation the earnings (income) lost by the victim which it had are subject to the citizen of a mutilation or other damage of health or definitely could have, and also the expenses caused by damage of health (on treatment, additional food, acquisition of drugs, the prosthetics, foreign leaving, sanatorium treatment, acquisition of special vehicles, preparation for other profession, etc.) if it is recognized that the victim needs these types of the help and leaving and does not receive them free of charge.

When determining the lost earnings (income) the disability pension appointed to the victim in connection with a mutilation or other damage of health, other types of grants appointed both to, and after infliction of harm to health, and also pension payments on account of compensation are not set off. On account of compensation of harm the earnings received by the victim after damage of health are not set off also.

By acts or the contract the volume and the amount of compensation which is due to the victim according to Civil Code of Republic of Kazakhstan can be increased.

The amount of the lost earnings (income) subject to compensation is defined as a percentage to average monthly earnings (income) to a mutilation or other damage of health or before the disability, corresponding to extent of loss by the victim of professional working capacity, and in the absence of it – the general working capacity.

The structure of the lost earnings (income) joins all types of compensation under employment and civil contracts as in a place of the main work, and in combination, assessed by the individual incomes tax. Payments of single character (compensation for unused holiday, the severance pay are not considered at dismissal, etc.). During temporary disability and a maternity leave the paid grant is considered. Income from an entrepreneurial activity, and also royalties joins in structure of the lost earnings, thus the income from an entrepreneurial activity joins on the basis of data of taxing authority.

Average monthly earnings (income) are counted by division of total amount of earnings (income) in twelve months of the work, preceding damage of health or disability approach, on twelve. In a case, when victim for a moment infliction of harm worked less than twelve months, average monthly earnings (income) are counted by

division of total amount of earnings (income) for actually worked number of the months preceding damage of health, on number of these months.

Short the months worked by the victim at his desire are replaced the previous completely worked months or excluded from calculations at impossibility of their replacement.

In a case when the victim at the time of infliction of harm did not work, earnings before dismissal or usual amount of remuneration of the worker of his qualification in this district, but not less tenfold monthly settlement indicator established by acts are considered at his desire.

If in earnings (income) of the victim before causing to it a mutilation or other damage of health there were the steady changes improving its property status (the salary on a post is raised, it is transferred to more highly paid work, went to work after the termination of educational institution and in other cases when stability of change or possibility of change of compensation of the victim will be proved), when determining its average monthly earnings (income) earnings (income) which he received are considered only or had to receive after corresponding change.

Compensation of harm at damage of health of the person which has not reached majority.

In case of a mutilation or other damage of health of the minor who is not reaching fourteen years and not having earnings, the persons responsible for harm, are obliged to refund the expenses connected with damage of health.

On reaching the injured fourteen years, and also in case of infliction of harm to the minor aged from fourteen till eighteen years, not having earnings (income), the persons responsible for harm, are obliged to compensate to the victim, besides the expenses caused by damage of health, also the harm connected with loss or reduction of its working capacity, proceeding from the tenfold monthly settlement indicator established by acts.

If by the time of health damage the minor had earnings, harm is compensated, proceeding from the amount of these earnings, but not below the tenfold monthly settlement indicator established by acts.

After work beginning the victim has the right to demand increase in compensation of harm, proceeding from earnings received by it, but not below the amount of remuneration established on a position held by it or earnings of the worker of the same qualification in a place of its work.

Compensation of harm to the persons which have suffered damage as a result of death of the citizen.

In case of death of the citizen the disabled faces which were consisting dependent on the dead or having by day of his death the right to the contents from it have the right for compensation of harm; the child of the dead who was born after his death, and also one of parents, spouses or other family member, irrespective of working capacity which does not work and is occupied with care of his children who were dependent on the dead, grandsons, brothers and the sisters who not reached fourteen years or though have reached specified age, but, according to the conclusion of the medical bodies, needing on a state of health in foreign leaving.

The faces which consisting dependent on the died citizen and have become disabled within 5 years after his death have the right for compensation of harm also.

One of parents, spouses or other family member, the unemployed and taken with care of children, grandsons, brothers and sisters of the dead, and become disabled during leaving implementation, keeps the right for compensation of harm after the end of care of these persons.

Harm is compensated: the minor – before achievement of eighteen years; the pupil at the age of eighteen years also is more senior – before the end of study in educational institutions on full-time tuition, but no more than till twenty three years; to women is more senior than fifty eight years and to men is more senior than sixty three years for life; to disabled people – for the term of disability; to one of parents, the spouse or other family member occupied with care of his children which was dependent on the dead, grandsons, brothers and sisters, – before achievement of fourteen years by them or changes of a state of health.

The amount of compensation of the harm suffered in case of death of the citizen. To the persons having the right for compensation of harm in connection with death of the citizen, harm is compensated at a rate of that share of earnings (income) of the dead estimated by rules of the Civil Code which they acquired or had the right to receive on the contents at his life. When determining compensation of harm to these persons the structure of the income of the dead, along with earnings, joins turning out to them during lifetime pension, the perpetual maintenance and other similar payments. At determination of the amount of compensation of harm the allowances granted to persons on the occasion of loss of the supporter, other types of grants appointed both to, and after death of the supporter, and also earnings, a grant, pension payments are not considered. Established to each

of having the right for compensation of harm on the occasion of loss of the supporter the amount of compensation is not subject to further recalculation, except cases of the birth of the child after death of the supporter; purposes (termination) of payment of compensation to the persons occupied with care of children, grandsons, brothers and sisters of the died supporter.

By the act or the contract the volume and the amount of compensation can be increased.

Change of the amount of compensation of harm. The victim who has partially lost working capacity, having the right at any time to demand from the face to which the duty of compensation of the harm, the corresponding increase in the amount of compensation if its working capacity decreased in connection with the caused damage of health in comparison with that which remained with it by the time of award of compensation to it is assigned. Persons to whom the duty of compensation of the harm connected with damage of health of the victim, having the right to demand the corresponding decrease in the amount of compensation if working ability of the victim increased in comparison with that which remained with it by the time of award of compensation for harm is assigned. The victim has the right to demand increase in the amount of compensation of harm if the property status of the citizen to whom the duty of compensation of

harm is assigned, improved, and the amount of compensation was reduced according to point 5 of article 935 of the Civil Code.

Increase in compensation of harm in connection with increase of cost of life and increase in a monthly settlement indicator. The sums of compensation of the harm, paid to citizens in connection with damage of health or death of the victim, are subject to indexation in the order established by acts at increase of cost of life.

Compensation of the harm connected with decrease in working capacity or death of the victim, is made by monthly payments.

In the presence of good reasons the court taking into account opportunities of the causer of harm can, on request of the citizen having the right for compensation, to award to it due payments at a time, but no more than in three years.

Collecting additional expenses can be made on a future tense within the terms established on the basis of the conclusion of medical examination, and also in need of advance payment of cost of services and property (permit acquisition, journey payment, payment of special vehicles, etc.).

In cases when the victim according to acts has the right to demand the termination or early execution of the obligation, such requirement is met by capitalization of the corresponding time payments.

### Литература

- 1 Закон РК от 07.02.05 г. «Об обязательном страховании гражданско-правовой ответственности работодателя за причинение вреда жизни и здоровью работника при исполнении трудовых (служебных) обязанностей». // Информационная система «ПАРАГРАФ», 2016.
- 2 Гражданский кодекс РК (особенная часть) от 1.07.1999 г. // Информационная система «ПАРАГРАФ», 2016.
- 3 Батыгин К.С. Право социального обеспечения. Общая часть: учебное пособие. – М., 1995.

### References

- 1 Zakon RK ot 07.02.05 g. «Ob objazatel'nom strahovanii grazhdansko-pravovoj otvetstvennosti rabotodatelja za prichinenie vreda zhizni i zdorov'ju rabotnika pri ispolnenii trudovyh (sluzhebnyh) objazannostej». // Informacionnaja sistema «PARAGRAF», 2016.
- 2 Grazhdanskij kodeks RK (osobennaja chast') ot 1.07.1999 g. //Informacionnaja sistema «PARAGRAF», 2016.
- 3 Batygin K.S. Pravo social'nogo obespechenija. Obshhaja chast': uchebnoe posobie. – M., 1995.