



**EMBASSY OF INDIA
KUWAIT**

**BASIC INFORMATION
FOR INDIAN WORKERS IN
THE STATE OF KUWAIT**

JANUARY 2004



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Foreword

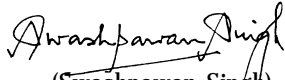
We are pleased to present a publication prepared by the Labour Wing of this Embassy which provides basic information to Indian workers about working conditions in Kuwait. The compilation should prove useful for workers from India, for the Protector of Emigrants, for the Ministry of Labour, and concerned officials in State Governments and District Headquarters across India.

The compilation has been prepared in a "Question-Answer" format keeping in mind the objective of giving relevant information about working conditions in Kuwait. It attempts to give useful advice regarding various types of documents, which should be in possession of the workers while in Kuwait. It also explains the differences in various types of visas, which are commonly made available for workers seeking to come to Kuwait and the implications of these differences. The sections dealing with death and death compensation claims provide detailed information to the next-of-kin for speedy completion of formalities and transportation of the mortal remains to India. The procedure for filing of death compensation claims is also outlined.

We trust that this compilation will be of practical use and will be of interest not only to workers planning to come to Kuwait but also to the wide cross-section of Indian workers already working in Kuwait.

While all possible care has been taken to ensure the correctness of interpretation of Kuwait's labour laws and other legal provisions promulgated by the Government of Kuwait, it may please be noted that this compilation is not a legal document and in case of any doubts, the opinions and judgments of the appropriate legal authorities will prevail.

I wish to acknowledge the good work done by Shri Ram Rattan, First Secretary (Consular), and Shri T. Cherian, Attaché (Consular & Labour), and all members of the Labour Wing, in putting together this useful compilation.


(Swashpawan Singh)

BASIC INFORMATION FOR INDIAN WORKERS IN THE STATE OF KUWAIT

Contents	Page
● Different types of visas.	7
● Contracts - Essential terms of an employment contract.	8
● How to approach Ministry of Social Affairs & Labour("Shoun" office).	12
● Worksite injury and Disability.	13
● Domestic workers.	13
● Important documents.	14
● General information.	14
● Intimation and Registration of death of an Indian national.	16
● Disposal of mortal remains (Local burial / transportation of mortal remains to India).	18
● Company / Legal dues of a deceased Indian worker.	20
● Compensation claim in case of death due to worksite / traffic accident.	21
● Documents / Procedures to file a compensation claim.	22
● Annexures.	24

DIFFERENT TYPES OF VISAS

Q. What are the different types of visas issued by the Kuwaiti authorities?

A. The main types of visas which are issued by the Kuwaiti authorities are as under:-

Visa / Article No.	Type/ Purpose	Issued by	Controlled by
14	Visit	Ministry of Interior	Ministry of Interior & Ministry of Social Affairs & Labour
17	Employment in the Government sector	Ministry of Interior	Civil Service Board
18	Employment in the private sector	Ministry of Interior	Ministry of Social Affairs & Labour
20	Domestic	Ministry of Interior	Ministry of Interior
22	Dependents	Ministry of Interior	Ministry of Interior

Q. How does one verify the genuineness of the visa or an employment contract?

A. The Area 'Protector of Emigrants' office (Annexure-I) may be contacted with full details. The matter may also be referred to the Embassy of India in Kuwait, if necessary, with full particulars of the sponsor company (Name, Address, Telephone and Fax No.) which issued the visa, along with Passport particulars.

Q. Is there a visa called 'free visa'?

A. There is no visa called 'free visa'. In fact, 'free visa' is either an employment or domestic category visa under which the employee works 'freely' with another sponsor. This practice is illegal and should not be resorted to.

Q. Are Indian nationals on 'visit visa' allowed to work?

A. Some companies issue 'visit visa' (commercial 'visit visa') to meet their urgent manpower requirement for short term work. After the work is finished, workers are allowed to come back (after leaving the country) on normal employment visa (Visa No.18) in case the employer needs them further; or repatriated to India.

Q. Are 'visit visa' workers covered by the Kuwait Labour law? What is the advice on coming for employment to Kuwait on 'visit visa'?

A. 'Visit visa' (No.14) workers arrive on commercial visit visa and not on employment visa (Visa No.18). They are not covered by the Kuwait Labour law and, therefore, 'visit visa' workers do not have a legal right under the Kuwait Labour law. The workers are advised to take up employment in Kuwait on visit visa only with highly reputed companies with full realization that they are going for Short Term employment and not long-term employment.

Q. Do the offices of the Ministry of Social Affairs attend to the complaints of 'visit visa' workers?

A. 'Visit visa' workers do not have a legal right under the Kuwait Labour law. However, it has been clarified by the Ministry of Social Affairs & Labour, Government of Kuwait that 'visit visa' workers could approach the Labour Inspection Department of the Ministry to file their complaints in case of violation of the provisions of the contracts.

Q. Which category of workers are covered by the Kuwait Private Sector Labour law?

A. The Kuwait Private sector Labour law under Decree No.38/1964 cover workers in the private sector who fall under Visa No.18.

CONTRACTS - ESSENTIAL TERMS OF AN EMPLOYMENT CONTRACT

Q. Is a written contract essential?

A. The Kuwait labour law does not specify any special form of contract. If there is no written contract, the worker is required to prove his rights by evidences. Indian nationals, therefore, are advised to obtain written contract duly signed by the sponsor / employer company before arrival in Kuwait.

Q. Which is the official language of the contract recognized by authorities in Kuwait?

A. The official language of the contract recognized by the authorities in Kuwait is Arabic. In a bilingual contract (English and Arabic), the Arabic version prevails in case of any dispute on the language of the contract.

Q. What are the essential terms of employment to be borne in mind while entering into a contract?

A.The contract should contain all important terms of employment. The most important terms of employment contract are working hours, salary, leave, food, accommodation, probation period, air ticket (to arrive initially and to depart on completion of the assignment), medical expenses, transportation to workplace, indemnity, clauses for termination of contract, expenditure on obtaining driving license, residence permit, etc. Some of these terms are elaborated further, as under:-

(a) **Working hours:** According to the labour law, actual working hours should not exceed Eight (8) hours a day, or forty eight (48) hours a week (i.e. excluding the intervals assigned for rest).

(b) **Over Time:** According to the labour law, over time calculation is on the normal wage entitled to per hour basis plus at least 25%. Over time on a weekly rest day is calculated as normal wage for the day plus at least 50%, and is calculated as double wages on an official public holiday.

(c) **Terminal benefits (Indemnity):** According to the labour law, the indemnity is calculated from the date of official commencement of work. The indemnity is calculated @ wages equal to fixed number of days for the number of years of service. Example: A fifteen-day wage for every one year service of the first five years, and a month wage for every one year service for the following years. Under certain conditions, the employer shall have the right to terminate the employee without indemnity. Indemnity is not payable if a worker leaves the work (upon resignation) on his own accord before 5 years. However, in the case of a worker who has completed more than five years of continuous service, he shall be entitled to half of the indemnity even if he leaves the work on his own accord. Terminal benefits are calculated on last drawn salary.

(d) **Leave & Leave salary:** According to the labour law, on completion of one year's continuous service, @ 14 days with full pay and @ 21 days following the fifth year of continuous service. However, if the employment contract prescribes more than what is mentioned in the labour law as above, the contract shall prevail for calculation of leave salary. Leave salary is admissible in all cases even if employee leaves upon resignation.

(e) **Vacation ticket:** The provision of vacation ticket is as per agreement between the parties according to the contract.

(f) Sick leave (during an year): According to the labour law, the admissibility of sick leave is as under:

With full wage	- 6 days
With 3/4 wage	- 6 days
With 1/2 wage	- 6 days
With 1/4 wage	- 6 days
Without wage	- 6 days

(g) Termination of contract / Notice for termination: According to the labour law, the minimum notice period for termination is 15 days. However, if the contract /agreement stipulates a specific period above the minimum, what is provided in the contract / agreement shall prevail.

If the contract is for a fixed period and both parties continue to implement it after its expiry, it shall be deemed renewed for unlimited period under the same conditions.

(h) Accommodation: Normally, free accommodation is provided by the employer in respect of workers hired from abroad. For some other workers, accommodation allowance is given by the employer according to the agreement / contract. It is advised that in the interest of Indian workers, the provision of accommodation should be insisted in the agreement /contract.

(i) Food: Normally, free food is provided by the employer to company workers or food allowance is given by the employer with kitchen facilities according to the agreement / contract.

(j) Expenditure on residence permit: According to the labour law, the responsibility to procure work permit and residence permit rests with the employer.

(k) Driving license: In the case of drivers, as the license is an essential document to perform the duty as driver, the employer facilitates the employee to procure the license.

(l) Health insurance: According to the rules issued on the subject by the authorities of Kuwait, the expenditure on health insurance for the stamping of residence permit of the employee, is the responsibility of the employer.

Q.What is the maximum period of probation? Does the employer have the right to terminate the services of the labourer without notice during the probation period?

A. According to the Labour law, the probation period shall not exceed 100 days. The employer has the right to terminate the services of the labourer without notice during the probation period.

Q.How do I ensure that these essential terms are provided for in the contract?

A. Workers should clearly understand the terms of contract and employment before a decision is taken to accept the employment and signing a contract. Therefore, any shortcomings in the contract should be sorted out with the Indian Recruiting Agent.

Q. How do I obtain a copy of contract while in India?

A. According to Government of India's instructions, recruitment agents are expected to provide copy of employment contract to each worker before his departure. To safeguard his own interest, individual worker has to demand from the recruitment agent copy of the duly signed contract before commencement of journey. Complaint may be lodged against the defaulting agency with the nearest Protector of Emigrants. Contact particulars of Protector General of Emigrants and its various branch offices (Annexure-I).

Q.I have come to work under the sponsorship of company –X. Company-X subcontracted the work to Company-Y. Who is responsible for the salary and other conditions of service? In a situation of violation of my rights, which companies do I complaint against?

A.You may file a petition against the company-X who is the sponsor for you in Kuwait.

Q. I have come on an employment visa (Visa No.18) for a project for 5 years. Can I get a release from the current employer to join another sponsor after 2 years service with the current sponsor?

A. The project visas are for the purpose of completion of the project. Therefore, the question of a release does not arise as this kind of visa is normally not transferable, except in certain circumstances as under:-

- (a) An employee can seek release from the present employer to join another employer if the said project has been entrusted to the new sponsor;
- (b) The present sponsor is getting another Government project in Kuwait.

Q. What are the conditions for seeking release from the sponsor in the private sector? Is release a legal right of the worker? Which authority can grant release?

A. Release from one sponsor to another sponsor is not a legal right of the worker. The rules on the various conditions for release are periodically set by the Ministry of Social Affairs & Labour. If the worker has completed five years service, Ministry of Social Affairs is vested with the discretion to grant release from one sponsor to another in the event of a dispute (when the sponsor objects to the request for release). In cases of serious labour rights violations by the employer or liquidation

or closing down of the operation of the company, the Ministry (Shoun office) would positively consider request of the worker provided there is a simultaneous willingness(Tanazel) from another sponsor to accept the worker.

Currently, one year service with a sponsor is the minimum condition before a worker can seek release to a new sponsor with the consent of the first sponsor provided there is a simultaneous willingness(Tanazel) from the new sponsor. In the case of subsequent local transfer, release becomes the right after completion of one year's service with an employer provided there is a simultaneous willingness(Tanazel) from another sponsor to accept the worker.

HOW TO APPROACH MINISTRY OF SOCIAL AFFAIRS & LABOUR(SHOUN OFFICE)

Q. In case of violation of my rights as a worker (Employment Visa / Visa No.18), who do I approach in Kuwait for settlement of the matter?

A. You should submit an application to the area office of the Ministry of Social Affairs & Labour (Shoun office). The particulars of the various offices of the Ministry in each Governorate are listed (Annexure-II).

Q. What are the steps followed by the above offices for settlement of the dispute?

A. On receipt of the application, the Shoun office shall call both parties to the dispute and take measures required for settling the dispute amicably. It is imperative that the worker gives correct contact address (including physical address) with telephone number of the sponsor at the Shoun office. Normally, on the date of the receipt of the application, they would fix the next date of hearing and a pink colour paper is issued to the worker. Notice of attendance is separately sent by the Ministry direct to the other party. On the date of the hearing, the Ministry shall take measures required for settling the dispute amicably between the parties. In case no amicable settlement is reached, the Ministry shall refer the dispute to the Court of First Instance. The Ministry issues a paper to the worker for the purpose of reference to the Court.

The important documents to be in possession of the worker at the Ministry of Social Affairs & Labour to file the complaint are:

- Copy of the civil ID;
- Copy of the signed employment contract;
- Copy of the work permit (Idn Amal or Izn Amal);
- Any other additional documents to substantiate the complaint;
- Brief description of the complaint.

WORKSITE INJURY AND DISABILITY

Q. If a worker is injured in the course of his work, what are the compensation and other entitlements?

A. According to the Kuwait Labour law, the injured worker shall receive his wages in full for six months during the period of treatment determined by the physician. Wages at 50% are payable for period beyond six months until he recovers, or proved to be disabled or dead. The compensation is determined with reference to a disability percentage according to a scale on the subject approved by the appropriate authority and as per prescribed procedures.

Q. What are the steps required to be taken in the case of physical assault at the workplace?

A. The first priority is to seek medical attention from the nearest area hospital. The medical personnel on duty is to be informed of the injuries suffered as a result of the assault and a report is required to be taken from the police official on duty at the hospital. A case is required to be registered at the area police station along with the medical report issued by the police post at the hospital. It is advisable to register the labour complaint with the Embassy before reporting to the area police station.

DOMESTIC WORKERS

Q. Are domestic category workers (Houseboys, Housemaids, Household drivers etc) under Visa No.20, covered by the Labour laws?

A. No.

Q. If the domestic category workers are not covered by the labour laws, how do they redress their employment related grievances?

A. The domestic category workers are required to approach the area Police station. However, before going to the area Police station, the workers are advised to register their complaint with the Embassy. A labour complaint form is required to be filled in at Embassy after which suitable advice and assistance will be rendered.

Q. It is reported that domestic category workers are taken as "shepherds" to work in deserts in Kuwait as well as in the Kingdom of Saudi Arabia. What are the precautions to be taken in not becoming a victim of this practice? Is there something called 'shepherd visa'?

A. The Embassy receives reports about Indian nationals being taken to Kingdom of Saudi Arabia to work as 'shepherds' and the working conditions there are naturally tough and unbearable.

There is no visa called 'shepherd visa' issued by local authorities. Most of the time, it is a person who arrives on a 'domestic' category visa who is taken to work as a 'shepherd'. Therefore, Indian nationals who intend to arrive on a 'domestic' visa are to be cautious and should seek prior clarification with their sponsors about the place of deployment.

IMPORTANT DOCUMENTS

Q. What are the documents to be carried by an Indian worker before his departure from India?

A. In addition to all the originals, copies of the following documents may be retained:-

- (a) Copy of employment contract;
- (b) Copy of passport;
- (c) Copy of the passport containing Emigration clearance;
- (d) Copy of visa;
- (e) Original educational qualification certificates.

Q. What are the important documents to be retained by an Indian national after arrival in Kuwait and during stay in Kuwait?

A. After arrival in Kuwait, the company will apply for the work permit formalities to be completed within One month. The worker should retain a copy of the work permit (Idn-Amal) and the employment contract (in Arabic or bilingual) submitted by the employer to the Ministry of Social Affairs to obtain the work permit (Idn-Amal). In addition, the company will apply for the Civil ID (Pathaka Madaniya) for the worker. Thus, the three important documents are:

- (a) Copy of Employment contract (in Arabic or bilingual) signed in Kuwait;
- (b) Copy of Work permit (Idn-Amal or Izn-Amal);
- (c) Original Civil ID (Pathaka Madaniya).

GENERAL INFORMATION

Q. What are the legal measures open to me if my passport is detained illegally by the sponsor in Kuwait?

A. Retention of passports of workers is practiced routinely by sponsors in Kuwait. The Honourable Courts in Kuwait have through their various orders recognized the importance of the passport and the right of its possession by the holder. An Indian national is advised to file a Court

case (with the Urgent Court at the Justice Palace) for the restitution of the passport. The procedure for the purpose is simple and the order is available normally in six weeks time. In case the order of the court is not honoured by the sponsor, you are advised to approach the Court again for execution of the order. Separately, you are also advised to file a complaint with the Labour section of the Embassy.

Q. What is the role of the Embassy in case of a dispute between an Indian worker and the employer?

A. In case of any dispute between the parties, such dispute shall be governed and determined in accordance with the current practice, regulations and law in Kuwait. The Embassy's role shall be to give help to solve the dispute amicably between the Indian national and the employer.

An Indian worker may approach the Labour Section of the Embassy for help in settlement of the dispute and for seeking advice. It is advisable that copies of essential documents (passport, visa, work permit, civil ID, contract, particulars of Indian recruitment agent, emigration clearance issued by the Protector of Emigrants) are in the possession of the worker at the time of reporting the complaint at the Embassy. The particulars of the Labour Section are as under:-

LABOUR SECTION
Embassy of India
Diplomatic Enclave
Arabian Gulf Street
PO Box No.1450-Safat
13015 Safat
Kuwait
Tele:2523276(D) & 2530600 Extn:243
Fax:2525811 & 2573910
Working hours: Sunday to Thursday : 0900 to 1200
and 1400 to 1600 hours.

Q. Do I have a right to form trade union or engage in strike in Kuwait or to absent from work?

A. It is illegal to engage in trade union activities and to absent from work without permission. Indian workers are strongly urged to perform their duty sincerely and follow the procedures prescribed by the authorities of the Government of Kuwait for redressal of their grievances.

Q.Which categories of workers / professionals are entitled to "Emigration Check Not Required" and where do I obtain the above clearance?

A. The various Passport Issuing Authorities in India and abroad and offices of the Protector of Emigrants, Ministry of Labour can be approached for the above clearance stamp, if you fall in one of the categories (Details at Annexure-III).

Q.How do I verify the welfare and whereabouts of an Indian national in Kuwait?

A. You may approach the Embassy with an application along with full particulars of the passport and sponsor. A copy of the visa may also be enclosed, if available. It may be clarified that without the above particulars, it would be impossible for the Embassy to refer the matter to the local authorities to ascertain the welfare and whereabouts of any Indian national.

INTIMATION AND REGISTRATION OF DEATH OF AN INDIAN NATIONAL

Q. What are the steps required to be taken in the case of death of an Indian national in Kuwait?

A. When an Indian national dies in Kuwait, the death is required to be intimated to the Embassy for the purpose of its Registration. The prescribed form for the intimation of death can be filled by a relative, friend or employer/sponsor. The primary responsibility to initiate various steps for Intimation, Registration, Local burial and Transportation of mortal remains to India lies with the sponsor. However, relatives or friends may assist the sponsor to facilitate early conclusion of the procedures.

Q. What are the documents required for Intimation of Death:

A. The documents required for the purpose are:-

- (1) The Intimation form(specimen / Annexure-IV).
- (2) Copy of provisional death certificate issued by hospital authorities.
- (3) Copy of passport of the deceased.
- (4) Copy of the passport /civil ID of the informer.

Q. Who will inform regarding the death to the family of the deceased in India?

A. The relatives, friends or the sponsor of the deceased are expected to inform about the death to the family in India. In case they are unable to establish contact with the family of the deceased, details may please be given to the Embassy for intimation of the death through Passport office or State Government authorities.

Q. Is Cremation allowed in Kuwait?

A. Cremation is not allowed in Kuwait.

Q. What will happen if the mortal remains are not claimed from the mortuary?

A. If the mortal remains are not claimed within one month from the date of death, the mortal remains are liable to be buried locally by the local authorities.

Q. After intimation of the death to the Embassy, what are the steps required to be taken by the informer?

A. An Authority letter is issued by the Embassy to enable him to collect Passport, Death certificate and Police Report (in case of unnatural death) for the death Registration.

Q. Who will decide whether the mortal remains are required to be transported to India or allowed to be buried in Kuwait?

A. The legal heirs or next of kin will take the decision whether the mortal remains are required to be transported to India or permitted to be buried in Kuwait.

Q. Is Death Registration compulsory?

A. Death registration at the Embassy is compulsory in all cases of death.

Q. What are the documents required for death registration?

(1) Original Death Certificate issued by the Ministry of Health, duly attested by Ministry of Foreign Affairs, Kuwait. Death certificate is collected from the Birth and Death Registration Office, Ministry of Public Health (Main office) near Maidan Hawally Police station. Death certificate issued by the Ministry of Health should be got attested by Ministry of Foreign Affairs (Consular Section) located at Shuwaikh, next to Kuwait News Agency Building.

(2) English translation of the death certificate (The death certificate should be translated into English from any authorized translator in Kuwait).

(3) Original Passport of the deceased.

(4) Copy of Civil ID of the deceased.

(5) Copy of police report in case of unnatural death (accident or suicide etc).

(6) Copy of passport /civil identity card of the informer.

(7) Application for registration of death of an Indian national (Annexure-V).

(8) Prescribed consular fee (KD 12.750) on account of issue of death certificate and attestation of documents.

DISPOSAL OF MORTAL REMAINS (LOCAL BURIAL / TRANSPORTATION TO INDIA)

Q. If the next of kin desires local burial in Kuwait, what are the steps required to be followed by them from India?

A. In case the next of kin in India wishes to have local burial in Kuwait, (Cremation is not allowed in Kuwait), they may fax an authority letter (specimen / Annexure-VI) to the Embassy authorising the Embassy to allow the local burial through another person in Kuwait. The next of kin in India will sign the authority letter before a Notary / Block Officer / Sarpanch / Gazetted Officer and fax the authority letter to the Embassy (Fax No.00965-2525811 or 2573910). In case the next of kin is already in Kuwait, they may visit the Embassy requesting for the permission of local burial. The permission for local burial is given after death registration.

Q. Who is responsible for expenditure on the transportation of mortal remains to India?

A. As per provisions of the employment contract prescribed by the Embassy and in accordance with local practice, expenditure on transportation of mortal remains is the responsibility of the sponsor. In case the sponsor declines his responsibility, the fact should be brought to the prompt attention of the Embassy for advice / guidance.

Q. Is the residence visa of the deceased required to be cancelled before disposal of the mortal remains?

A. The residence visa of the deceased is required to be cancelled. It is the experience of the Embassy that where cancellation was not possible due to unavoidable circumstances, the cancellation of the residence visa is done at the airport at the time of transportation of the mortal remains.

Q. What are the steps required to be taken for transportation of mortal remains to India?

A. In case the mortal remains are required to be transported unaccompanied, the next of kin in India is advised to meet the officials of the concerned airlines in India to give an undertaking that they would receive the mortal remains at the Airport. On receipt of clearance from their respective office in India, the concerned airlines office in Kuwait will issue an Airway Bill for transportation of the mortal remains. The other steps are:

- (1) Death Registration. Complete all the steps mentioned above for death registration and collect the death registration certificate from the Embassy.
- (2) Issue of Airway bill for transportation of the mortal remains:

The coordinator is advised to approach any airlines and obtain airway bill with confirmed date and time. [While planning the date, they may keep in mind the procedures involved in the sealing of coffin box/embalming]. Air India and Indian Airlines give 50% discount for transportation of the mortal remains of Indian nationals. [Contact : Cargo Manager, House of Travels (Agent of M/s Air India and Indian Airlines), Ghazali Street, Al-Rai, Shuwaikh, Kuwait (Telephone No. 4715725 / 4711452 / 9057643)].

(3) Embalming / Sealing of Coffin Box :

Approach Dr. Ali of Sabah Hospital (Mortuary) (Tel No. 4832090) to obtain appointment for embalming / sealing of coffin box. Dr. Ali will issue three slips with the time and date of the appointment for sealing of coffin box; first copy for transportation of the dead body from the hospital (mortuary where the body is kept) to the Sabah Hospital, second slip for incharge of coffin box, and third slip for the Embassy of India to enable it to send the representative for the sealing of coffin box. [Please reconfirm the appointment with the Embassy official].

After sealing the coffin box, the Doctor will issue Embalming certificate in Arabic (two copies) which is to be translated into English by an authorised Translator (Attestation from the Embassy is not required for the certificate). The certificate is required to be handed over to the concerned representative of the airlines' Cargo office immediately along with other original documents (passport, death certificate issued by the Ministry of Health, translation of death certificate, death registration certificate issued by the Embassy) plus 5 sets of photocopies.

(4) Transportation of the mortal remains from Sabah Hospital to Airport:

After completion of above mentioned formalities, the coordinator or his representative is required to approach the Reception official of the Sabah Hospital three hours before the flight time for the release of the coffin box with one set of the above documents. On request, they will provide Ambulance for transportation of the coffin box from the Sabah Hospital to Airport free of charge.

(5) Formalities at the Airport:

In case the body is transported accompanied, after check-in and immigration formalities, the accompanying traveller will go to the health office in the basement near the arrival counters. After completing the formalities with the health office, please return to the immigration officer near the immigration counters for cancellation of the residence permit. Once these formalities are completed, the passenger will proceed to board the flight. The body will be loaded on flight by Airport authorities.

In case the body is transported unaccompanied, hand over all the original documents to the representative of the Airlines and they will complete all the formalities.

Q Who do I contact at the Embassy in the case of death of an Indian national?

A. During working hours:

Labour Section:

Tele:2523276(D)/2530600 Extn:271

After office hours and on holidays:

Reception:

Tele:2530600 Extn:244

COMPANY DUES / LEGAL DUES OF A COMPANY WORKER

Q. What are the formalities if the company dues in respect of a deceased Indian worker are not received? Is it advisable to give a power of attorney in favour of the Embassy of India?

A. It is the experience of the Embassy that reputed companies/sponsors pay the outstanding dues of the deceased (unpaid salary, accrued leave salary, indemnity etc) to the next of kin promptly. Where the legal heirs have not received it from the company, the fact should be brought to the notice of the Embassy for advice. The efforts and expenditure involved to procure the legal heirship certificate and Power of Attorney may not be worth the amount of dues available. The sponsor may eventually give the dues without these documents as the amount is normally not substantial as in the case of blood money (payable on account of death claims due to work-site accident or traffic accident). Therefore, the next of kin is advised NOT to follow the procedure for giving Power of Attorney etc to the Embassy in the case of company dues without the advice of the Embassy.

Q. Is there a time limit to file a claim for company dues?

A. Please note that in case of claim of company dues (outstanding dues of salary and indemnity etc.) the case should be filed within one year from the date of death, otherwise the claim would become time barred

COMPENSATION CLAIM IN CASE OF DEATH DUE TO WORKSITE / TRAFFIC ACCIDENT

Q. Why is it advisable to file a proper compensation claim through the Embassy of India in case of death due to traffic and worksite accident?

A. A proper claim through the Embassy is advisable in all cases of death due to work-site accident/traffic accident. The possibility of securing maximum amount of compensation depends upon the nature of job held by the deceased, number of persons dependent upon the deceased and other humanitarian considerations. The Embassy's lawyer in all cases will file the claim for the maximum amount. It is the experience of the Embassy that the local insurance companies do not remit the compensation due to the legal heirs expeditiously and try to delay it on one pretext or another, unless the legal heirs appoint local lawyer to file a case for death compensation. There have also been instances where the family of the deceased has been duped by relatives / friends who were given Power of Attorney. In these circumstances, in the interest of legal heirs, it is advisable to appoint Embassy of India, Kuwait as their attorney and the claim is filed through the Embassy.

Q. What is the time limit to file a claim for compensation in a death case due to worksite accident?

A. Please note that in case of work-site accident, the case should be filed within one year from the date of death, otherwise the claim would become time barred.

Q. What is the amount of compensation claim filed in a death case due to worksite accident?

A. The amount of compensation can be filed for an amount of blood money (generally the amount of blood money is recognized at the level of KD 10,000/- or equal to 1500 days full wage (according to Kuwait Labour law) which ever is greater.

Q. What is the amount of compensation claim filed in a death case due to traffic accident?

A. In Kuwait when a person dies in a road accident his / her legal heirs can file a claim for blood money (generally the amount of blood money is recognized at the level of KD 10,000/- or more).

Q. Is compensation admissible if the death (worksite / traffic) has occurred due to the negligence of the deceased?

A. It is clarified that the local courts do not award compensation in those cases where the fatal accident was due to negligence of the deceased.

Q. What is the time limit to file a claim in a death case due to traffic accident?

A. In case of road accident, the case should be filed with the concerned authorities within a period of three years from the date of death or decision of the traffic court, otherwise the case would become time barred.

Q. What are the charges of the Embassy's Lawyer to file a claim for death compensation?

A. The Embassy's lawyer normally charges ten percent of the total compensation /service dues awarded by the local court /employer plus expenses on translation, attestation of documents etc. This is in addition to the court fees (usually 2.5 percent of the compensation amount).

DOCUMENTS / PROCEDURES TO FILE A COMPENSATION CLAIM

Q. What is the Procedure /Documents required from India for claims of death compensation (blood money) in case of death due to work-site accident/traffic accident?

A. The procedure and documents are as under:

(1)Legal heirship certificate: The next of kin are required to submit application for issue of legal heirship certificate with the District Authorities (District Magistrate /First Class Magistrate's office). The legal heirship certificate issued by the District authorities should be as per specimen at Annexure-VII

Legal heirship Certificate, duly signed by District Magistrate, should be submitted to the Attestation Department of Home Ministry of their respective State Government, for attestation. Legal heirship certificate, duly attested by District Magistrate and Attestation department of Home Ministry of respective State Government, should be submitted to the Consular Section, Ministry of External Affairs, Patiala House, New Delhi for attestation.

(2)Power of Attorney: The next of kin are also required to prepare Power of Attorney, Jointly or separately, in favour of the Embassy of India, Kuwait (specimen –Annexure-VIII). Power of Attorney should also be submitted to the attestation department of Home Ministry of the respective State Government, for attestation. Power of Attorney, duly attested by Authorised Officer of the Home Ministry of the respective State Government, should also be submitted to the Consular Section, Ministry of External Affairs, Patiala House, New Delhi, for attestation.

(3)Additional information: The legal heirs are required to forward Legal Heirship Certificate and Power of Attorney, duly attested by concerned authorities, to the Embassy for necessary action. They may forward the documents along with a letter indicating the following information:-

- (a) Description of the job and monthly salary of the deceased before death;
- (b) The difficulties which are likely to be faced by the legal heirs due to the death;
- (c) Any other particular and special circumstances to be brought to the notice of the local court relevant in fixing the quantum of death compensation.

Q. What is the address of the Embassy where the documents are to be sent?

A. The above three documents should be sent to the Embassy of India, Kuwait by registered post at the following address:-

Attache(Cons & Lab)
Embassy of India
(Labour Section)
Diplomatic Enclave
Arabian Gulf Street
PO Box No.1450-Safat
13015-Safat, Kuwait
Tele:965-2523276(D)/2530600 Ext:271
Fax No.965-2525811, 2573910

Q. How does the Embassy send the amount of compensation to the legal heirs in India?

A. On receipt of the amount of compensation, the cheque is sent to the State Government authorities (District Collector) for payment to the legal heirs. The legal heirs are also informed simultaneously.

LIST OF ANNEXURES

Annexure-I	Offices of Protector General of Emigrants and Offices of Protector of Emigrants.
Annexure-II	Offices of Ministry of Social Affairs & Labour in various Governorates in Kuwait.
Annexure-III	Categories of workers / professionals who are entitled to - "Emigration Check Not Required".
Annexure-IV	Form for Intimation of death.
Annexure-V	Form for Registration of death.
Annexure-VI	Form of authority letter for local burial.
Annexure-VII	Specimen of Legal heirship certificate.
Annexure-VIII	Specimen of Power of Attorney.

ANNEXURE-I

OFFICE OF THE PROTECTOR GENERAL OF EMIGRANTS
AND VARIOUS OFFICES OF PROTECTOR OF EMIGRANTS
UNDER THE MINISTRY OF LABOUR, NEW DELHI
(www.labour.nic.in)

1	Protector General of Emigrants Ministry of Labour Shram Shakthi Bhavan New Delhi-110001	Telfax:011-23710208
2	Protector of Emigrants, Jaisalmer House, Canteen Block, Mansingh Road, New Delhi-110011	Telfax: 011-23382472
3	Protector of Emigrants, Building 'E' Khira Nagar, S.V.Road, Santa Cruz (West), Mumbai-400054	Tel: 022-26147393 Fax: 022-26614353
4	Protector of Emigrants, Mercy Estate, Ravipuram, M.G.Road, Cochin- 682015	Tel: 0484-2360187
5	Protector of Emigrants, Suganthi, 24/846 (1) Thycaud, Thiruvananthapuram- 695014	Telfax:0471-2324835
6	Protector of Emigrants, TNHB Ashok Nagar Shopping Complex (Annex) Ashok Nagar, Chennai - 600083.	Telfax: 044-24891337
7	Protector of Emigrants, Kendriya Sadan, 5th Block, Ground Floor, Sector 9-A Chandigarh-160017	Tel: 0172-741790 Fax: 0172-743647
8	Protector of Emigrants, Room No. 118, A Wing, M.S.O. Building, D.F.Block, Salt Lake, Calcutta - 700084.	Tel: 033-23343407 Fax: 033-23210331
9	Protector of Emigrants, 8th Floor, Chandra Vihar, A.P.H.B, M.G.Road, Hyderabad - 500001	Telfax: 040-24732869(P)

ANNEXURE-II

OFFICES OF THE MINISTRY OF SOCIAL AFFAIRS & LABOUR (SHOUN) IN VARIOUS GOVERNORATES IN KUWAIT

Office	Location	Telephone Number
Capital Labour Office	Sharq, Behbehani Complex, Floor No. 5	240 9190
Hawalli Labour Office	Hawalli, Tunis Street, at the Sadek Roundabout	265 2991
Farwaniya Labour Office	Al-Dajeej Area, Behind the Nationality & Passport Directorate General	434 3871
Jahra Labour Office	Old Jahra, behind the Cinema and the telecommunication tower	458 0044
Ahmadi Labour Office	Ahmadi, from the bridge that follows the governorate bridge to the right, Labour office is at the right side from the third signal	398 6512

ANNEXURE-III

LIST OF PERSONS / CATEGORIES OF WORKERS IN WHOSE CASE EMIGRATION CHECK IS NOT REQUIRED

1.	Persons going in managerial capacity in Hotels, Restaurants, Tea Houses or other places of public resort, etc., possessing specialized degrees in these fields.
2.	All gazetted government servants.
3.	All Income-tax payers (including Agricultural Income-tax payers) in respect of their individual assessment to Income-tax and actual payment of Income tax for last three years to be insisted upon, and not merely payment of advance tax.
4.	All professional degree holders, such as Doctors holding M.B.B.S degrees or Degrees in Ayurved or Homoeopathy, Accredited Journalists, Engineers, Chartered Accountants, Lecturers, Teachers, Scientists, Advocates etc.
5.	Spouses and Dependent Children of category of persons, listed in Columns from (2) to (4).
6.	All persons who have been staying abroad for more than three years (the period of three years could be either in one stretch or broken) and spouses, and children of such persons.
7.	All Indian Seafarers holding Indian or Foreign CDCs and Sea-Cadets.
8.	All holders of Diplomatic / Official Passports.
9.	Dependent children of parents whose passport are classified as ECNR. In the case of such children, ECNR classification to be restricted till they attain 24 years of age.
10.	Persons holding permanent immigration visas, such as in UK,USA and Australia.
11.	Persons holding diplomas or higher Degrees.
12.	Persons holding diplomas from recognised Institutions like Polytechnics.
13.	Nurses possessing qualification recognised under the Indian Nursing Council Act, 1947.
14.	All persons above the age of 60 years.
15.	All visitors to Pakistan and Bangladesh.
16.	All persons going to any country in Europe (excluding CIS countries, North America, Australia, New Zealand or Japan).
17.	Persons possessing certificates of vocational training from Government / Government recognised institutions.

ANNEXURE-IV

INTIMATION OF DEATH

Date: _____

To
The Embassy of India,
Kuwait

Sir,
I, _____ holder of Indian
passport / Civil Card No. _____ (copy enclosed)
residing at (Kuwait address) _____
Telephone No. _____ regret to inform you that Mr/Ms/Mrs _____
_____ holder of Indian passport No. _____
_____ dated _____ issued at _____
_____ died in Kuwait on _____ due to _____
_____ (cause of death). He / she was my _____ (relative / colleague / friend).
The family members of the deceased have been informed about the death of the deceased.

Particulars of the sponsor / employer / company of the deceased are as follows:

Name of the Company / sponsor: _____
P.O.Box _____
Telephone No. _____ Fax No. _____

It is requested that the authority letter may please be issued in my favour to enable me to collect passport, death certificate and police report etc. from the concerned local authorities in respect of the deceased for making necessary arrangements for transportation of the mortal remains to India / local burial. After collecting the documents I will approach the Embassy for registration of death and for completion of further formalities for disposal of mortal remains.

Yours faithfully,

Signature

Enclosures:

1. Copy of death report issued by hospital authorities;
2. Copy of passport of the deceased; and
3. Copy of passport and civil card of the informer.

ANNEXURE-V

REGISTRATION OF DEATH OF AN INDIAN NATIONAL IN KUWAIT

PARTICULARS OF DECEASED:

1. Name: _____
2. Date & Place of death: _____
3. Passport particulars: _____
 - (a) Number: _____
 - (b) Date of issue: _____
 - (c) Place of issue: _____
4. Occupation: _____
5. Name of next of kin
(Father / Husband / Wife)
in India: _____
6. Full address & telephone number,
if any: _____
7. Name, address & telephone
number of relative / friend
in Kuwait, if any: _____
8. Name of Sponsor / Employer
(Full address with telephone number): _____
9. Cause of death
(Sickness / accident / suicide): _____
 - (a) Nature of accident _____
 - (b) (road accident / worksite accident
or other): _____
 - (c) Whether concerned police station
informed: _____
 - (d) Name of Police station, case no.
and date: _____
 - (e) Number of owner's vehicle
involved in accident: _____
 - (f) Name of insurance company
concerned: _____
 - (g) Whether dead body to be buried
locally or to be sent to India: _____
10. Police report / post mortem report
(if available, give details) _____

PARTICULARS OF INFORMER

1. Name _____
2. Passport particulars:
(a) Number _____
(b) Date and Place of issue _____
3. Civil ID Card Number _____
4. Address in Kuwait Block No. _____ Area _____
Street Name & No. _____
Post Box No. _____
5. Telephone No _____
6. Relation to the deceased _____
7. Action taken to inform next of
kin and details of leftover belongings. _____
8. Action taken in regard to claim of
compensation in case the death is accidental _____

Date:

Signature of informer

Enclosures:

1. Original passport of the deceased, original death certificate issued by Ministry of Health, Birth and Death Registration Office, Kuwait, duly attested by Ministry of Foreign Affairs, Kuwait and its Translation in English.
2. Copy of passport of the deceased (2 nos.)
3. Copy of Civil Card of the deceased (2 nos.)
4. Copy of police report (in case of accident / suicide) (2 nos.)
5. Copy of civil card of the informer (2 nos)
6. Copy of the Civil card of the sponsor (in case of domestic worker) (2 nos)

OTHER PARTICULARS

1. Name of deceased _____
2. Date of death _____
3. Nature of death
(Natural / Traffic / Worksite) _____
4. Age at the time of death _____
5. Type of Visa _____
6. Salary / Wages _____
7. Actual employment _____
8. Name / address / Telephone number of employer _____
9. Date of first arrival in Kuwait _____
10. Address of next of kin in India _____
11. The details of next of kin:
Father : Alive / Not alive
Mother : Alive / Not alive
Wife / Husband : Yes / No
No. of children (with age) :
No. of brothers / sisters :

12. Possibility of death compensation :
(in case of traffic / Worksite accident) _____
13. Other relief already received:
(from sponsor) _____

Date:

(Signature of informer)

ANNEXURE-VI

AUTHORITY LETTER FOR LOCAL BURIAL

To
Embassy of India,
P.O.Box 1450
Safat-13015, Kuwait.
(Fax No. 00965-2573910 or 00965-2525811)

Date:

Sir(s)

I / We _____
father / mother / husband / wife / son / daughter of late Mr/Ms/Mrs. _____
_____ holder of Passport No. _____
_____ dated _____ issued at _____ who died in
Kuwait on _____ resident of (address in India) _____

do hereby authorize the Embassy of India, Kuwait to allow the local burial of mortal remains of the deceased.
The permission of local burial may please be given to Mr/Ms/Mrs. _____
_____ resident of (Kuwait address) _____
_____ Telephone No. _____

Dated: _____

Signature verified by

Signature

Notary / Block Officer / Sarpanch / Gazetted Officer

ANNEXURE-VII

LEGAL HEIRSHIP CERTIFICATE

Upon the application made by Mr./Mrs. _____ and after hearing the testimony given by each of (1) Mr./Ms/Mrs. _____, it is ascertained that the deceased Mr./Mrs. _____ expired in Kuwait on _____ and his / her inheritance is confined to the following persons:

Sl.No	Full name	Relationship with the deceased	Age/(Major/Minor)
a.			
b.			
c.			
d.			
e.			

2. There are no other legal heirs except those named above.

3. Mr./Ms/Mrs. _____ is the legal guardian of minor children mentioned above(To be omitted, if there are no minor legal heirs).

Magistrate
Signature & Seal
Place:

Date:

Note: Please mention the name and address of Head of family or Major Legal Heir.

Please write full name including surname, father's / husband's name of the legal heirs. The local Government does not accept document, if father's name and surname is not added to the individual's name.

ANNEXURE-VIII

POWER OF ATTORNEY

I/ We, * _____
resident of _____ do hereby constitute, nominate and appoint the EMBASSY
OF INDIA, KUWAIT, to do any or all the acts, deeds and things given herebelow:

- i) To appoint a local lawyer in Kuwait, to take all other necessary steps to secure the death compensation and service dues for the legal heirs of late. _____
- ii) To settle the terms of payment to the said lawyer and arrange payment to him out of the compensation amount, service dues that would be receivable and actually received.
- iii) To engage lawyer/s, Advocate/s, Consul, Solicitors or any Person/s, Firm, Company as may be deemed proper and necessary on such terms and conditions as our said attorneys, in their absolute discretion may feel fit, settle their fees, obtain legal advice, pay the fees etc.
- iv) To attend courts, offices, tribunals and to execute all such deeds, documents etc. as may be necessary for the said purpose.
- v) To compromise, to receive the amounts for and on our behalf to give valid receipt, discharge, etc.
- vi) To incur all such expenses as may be necessary for effectively carrying out the above purposes and with a view to obtain for heirs of said deceased _____, all such amounts as may be due and payable to us and receivable by us/his/her heirs.
- vii) To do all such acts, deeds and things as in the opinion of our said attorneys are proper and necessary for carrying out the above purpose.

2. It is hereby stated that Mr. /Mrs _____ is the legal guardian of minor/s mentioned at S.No _____ in the legal heirship Certificate. (To be omitted, if not necessary).

3. And I hereby confirm that all such acts, deeds and things done and executed by our said attorney i.e. THE EMBASSY OF INDIA, KUWAIT by virtue of this Power of Attorney shall be binding on me and shall be ratified by me and be deemed as acts, deeds and things done by me.

Signature

Signed and delivered in my

Presence by the above named

Signature of witnesses.

* Note: Please write full name including surname, father's/husband's name of the Executant(s), their present address and relationship with the deceased. Name(s) of the Executant(s) should be similar to the name(s) mentioned in the legal heirship certificate.