



सं./No. 8/4/2011- VS (CRS)

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS

भारत के महारजिस्ट्रार का कार्यालय

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Dated - 29th December, 2011

To

The Chief Registrar of Births and Deaths
All States/UTS

Sub: Clarification regarding determination of place and date of death of a missing person.

Sir,

Please refer to this office letter no. 1/12/87 - VS (Cord - HP) dated 07.09.2000 which was issued in respect of determination of place and date of death of a missing person, wherein, It was specified that under Section 108 of Indian Evidence Act 1872, a person who is unheard for more than seven years is presumed to be dead and said section does not speak about the date and place of death, the date and place of death of a missing person has to be determined by the competent Court / authority on the basis of oral and documentary evidence produced before the Court. However, now a days, it has come to the notice of this office through various State Governments that the respective Courts are not mentioning the date and place of death of a missing person in its order which create problem in registration of death of the missing person.

2. In view of the above, this issue has been referred to the Union Ministry of Law & justice for their advice. The Ministry has advised that -

*The earliest date to which the **death can be presumed can only be the date when the suit or claim of that right is filed as** has been held in the matter of *Jeshankar vs Bai Divali*, reported in (1920) 22 Bom Lr 771. The issue has been made more clear on the point of date of death in the matter reported in AIR 1945 Madras 440 *Bhagat vs. LIC, Madras* wherein it was observed that in the absence of probable motive of foul play or accident one has to speculate as to the cause of his disappearance, and it could not be presumed that he was dead, on the date of his disappearance and in the absence of proof that he was alive the only conclusion possible is that he was at the time the question arose (date of plaint).*

In view of the foregoing when the provisions of Section 13(3) of the Act are specific that registration will be on the basis of court order, an entry be made in the relevant record on the basis of court order only and as has been held by the courts the date of death may be mentioned on which plaintiff approached to the Court.

3. In view of the above, you are therefore requested to circulate the contents of this letter to all the district and local level registration authorities to enable them to register the death of a missing person. This office may also be appraised about the action taken in this regard along with the copy of instructions issued to the registration functionaries.

Yours faithfully

A handwritten signature in cursive script, appearing to read 'P.A. Mini', written in dark ink.

Deputy Registrar General (CRS)