

**CHAPTER 11.****Judgment and Decrees**

## PART A.—PREPARATION AND DELIVERY OF JUDGMENTS.

Early  
pronouncement  
advisable parties  
to have due  
notice of the day  
fixed

1. When the trial in Court is over, the Judge should proceed at once, or as soon as possible to the consideration of his judgment. When the judgment is to be pronounced on some future day the Judge should fix a day for that purpose and the parties or their counsel should have due notice of the same. It is essentially necessary that the judge should proceed to the consideration of the judgment while the demeanour of the Witnesses and their individual characteristics are fresh in his memory. He should bear in mind that his first duty is to arrive at a conscientious conclusion as to the true state of those facts of the case about which the parties are not agreed. The oral and documentary evidence adduced upon each issue should be carefully reviewed and considered in the judgment.

Directions  
judgments

2. In the preparation and delivery of judgment the attention of the Civil Courts is drawn to the following:-
  - (1) The Judgment should be written either in the language of the Court, or in English;
  - (2) when a judgment is not written by the Presiding Officer with his hand, every page of such judgment shall be signed by him;
  - (3) it should be pronounced in open Court after it has been written and signed;
  - (4) it should be dated and signed in open Court at the time of being pronounced and when once signed shall not afterwards be altered Of added to, save as provided by section 152 or on review;
  - (5) if it is the judgment of any Court other than a Court of small Causes, it should contain a concise statement of the case; the points for determination the decision thereon and the reasons for such decision;
  - (6) if it is the judgment of a Court of small Causes, it should contain the points for determination and the decision thereupon;
  - (7) it should contain the direction of the Court as to costs;
  - (8) All the paragraphs of the judgment should be serially numbered to facilitate reference;
  - (9) The Judgment rendered by the Subordinate Courts in Civil Suits, Petitions (Civil and Criminal) and the Criminal trials should have a list of witnesses and exhibits at the end in an annexure. The annexure shall be prepared by the Reader/Ahlmad in the court of the concerned Judge. The Reader/Ahlmad shall start preparation of the annexure on the day the examination of the witnesses and exhibiting of

the documents start and go on adding the names of witnesses examined and documents exhibited on each day as the trial progresses till its final conclusion.

It shall also be applicable to original petitions, criminal trials and suits tried by District and Sessions Judge/Additional District & Sessions Judge”.

**LIST OF WITNESSES**

S.No.	Name of Witness	Whether witness of plaintiff or defendant

**LIST OF DOCUMENTS**

Exhibit /Mark	Date of Exhibit	Description of Exhibit

[clause (9) amended vide Correction Slip no. 78 Rules/II.D4 dated 16.11.2018.]

Reference to evidence

- Some Judicial Officers make a practice of prefacing judgments with a memorandum of the substance of the evidence, given by each witness examined which has to be referred to. This practice is irregular, when the memorandum is in addition to that made under Order XVIII, rule 8 of the Code of Civil Procedure. All that the law requires is a concise statement of the case and not a reproduction of the evidence. The judgment should, however, be complete in itself as regards the requirements of Order XX, rule 4, of the Code, and should set forth the grounds of decision as concisely as is consistent with the introduction of all important matters. It may be necessary, in particular cases, to refer to, and give a summary of, the statements of a witness or witnesses; but, if so, such summary should be incorporated in the reasons given for the decision of the Court on the issue to which it relates. When it is necessary to refer to the evidence of a witness in the course of a judgment, the reference should be by name as well as the number of the witness.

Postponement

- Instances have occurred of judgments not being written until a considerable time after final arguments in a case have been heard. This practice is open to grave objection, and in any case in which judgment is not written and pronounced within 14 days from the date on which arguments were heard, a written explanation of the delay must be furnished by the subordinate Court concerned to the District Judge. This is not meant to encourage a practice of reserving Judgments; on the contrary, judgments should ordinarily be written as soon as arguments have been heard. It is only in the exceptional case where the Court has to consider many rulings and cannot conveniently give judgment at once, that

there is any justification for Judgment being reserved.

The subordinate Courts should append to their monthly and quarterly statements, a certificate to the effect that judgments have been pronounced in all cases (including rent and objection cases) within one month of the final conclusion of evidence. Explanation should be given as regards any judgments not delivered within such period.

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| <b>Certificate of Postponement</b>                                                            |                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Procedure when judge gives over charge before pronouncing Judgment</b>                     | 5. Every District Judge or Sub-Judge proceeding on leave or transfer, must, before making over the charge, sign a certificate that he has written judgments in all cases in which he has heard arguments. Should an officer be forced to lay down his charge suddenly, he shall, nevertheless, write the judgments in such cases, and send them for pronouncement to his successor.                       |
| <b>Persons employed for dictation of judgments</b>                                            | 6. Subordinate Courts should note that judgments are to be dictated only to persons employed for that express purpose or employed as copyists or candidates.                                                                                                                                                                                                                                              |
| <b>Note to be written in Court before disposal of cause list</b>                              | 7. The practice of writing up judgments during the Court hours in the early part of the day is to be deprecated. Judgments may be written after the day's cause list has been completed.                                                                                                                                                                                                                  |
| <b>Language</b>                                                                               | 8. Presiding Officers of Subordinate Courts, who are well acquainted with the English language, should write their judgments in English in appealable cases when a Subordinate Judge writes his judgment in English, the decree also should be framed in the same language.                                                                                                                               |
| <b>Information of cancellation of registered instrument to be sent to registering officer</b> | 9. It should be remembered that section 39 of the Specific Relief Act, 1877, requires that, when any registered instrument has been adjudged void or voidable, and the Court orders it to be delivered up and cancelled, the Court shall send a copy of its decree to the officer in whose office the instrument was registered with a view to such officer noting the fact of cancellation in his books. |
| <b>Pronouncing judgment after death of a party</b>                                            | 10. In Order XXII, rule 6, it is provided that, if any party to a suit dies between the conclusion of the hearing and the pronouncing of the judgment, such judgment may be pronounced, notwithstanding the death, and shall have the same force and effect as if it had been pronounced before the death took place.                                                                                     |
| <b>Judgment not legibly written</b>                                                           | 11. Judgments (when not type-written) should always be written in a clear and legible hand. If they are not so written, such a copy should be made and placed on the record.                                                                                                                                                                                                                              |
| <b>Civil powers to be disclosed in the record, judgment and decree</b>                        | 12. Every judicial officer hearing or deciding a civil suit, proceeding or appeal, is responsible that the record and the final order of judgment and the decree in such civil suit, proceeding or appeal, shall disclose the civil powers which such officer exercised in hearing or deciding such suit, proceeding or appeal.                                                                           |
| <b>Civil powers</b>                                                                           | 13. The powers above referred to are the following:—<br>(a) Subordinate Judge, fourth class.<br>(b) Subordinate Judge, third class.<br>(c) Subordinate Judge, second class,                                                                                                                                                                                                                               |

- (d) Subordinate Judge, first class.
- (e) Subordinate Judge invested with appellate powers under section 39 of the Punjab Courts Act.
- (f) Subordinate Judge invested with powers of Court of Small Causes.
- (g) Judge, Small Cause Court.

**Civil powers**

14. When the powers exercised by any Judge invested with powers under Section 28 of the Punjab Courts Act differ from those stated in rule 14, such powers must be specifically stated.

**Appellate Powers**

15. By High Court notification No. 170-Gaz./XXI. C.6, dated the 16th May, 1935 (as amended by notification No. 53-Gaz./XXI-C.6, dated the 23rd February, 1940), in respect of the Punjab, and by High Court notification No. 171-Gaz./XXI.C.6, dated the 16th of May, 1935, in respect of Delhi, the Senior Subordinate Judge of the first class in each District of the Punjab (1) and Delhi has been invested with appellate powers up to a certain limit.

**Special Appellate Powers**

16. Certain selected Sub Judges of the 1st Class are, however, personally invested by name with appellate powers of a higher limit. To mark the distinction such Sub Judges should when exercising their enhanced powers, invariably use the words "invested with special appellate powers".

**Review and amendment**

17. For review and amendment of judgments see Chapter I-L (d) and (e) of this volume.

**SCHEDULE**

**Punjab and Haryana Civil Courts Preparation and Supply of Certified Copies of Type Written Judgments Rules, 1982**

In exercise of the powers conferred by Rule 6B read with Rule 20 of Order XX of Code of Civil Procedure, 1908, as amended, the High Court of Punjab and Haryana makes the following rules to regulate the preparation and supply of certified copies of type written judgments in civil cases by Courts provided with stenographers/steno-typists, namely:-

**1. Short title, extent and commencement:-**

- (1) These Rules may be called the Punjab and Haryana Civil Courts Preparation and Supply of Certified copies of Typewritten Appealable Interim Orders/Judgments Rules, 1982.
- (2) They shall apply to every civil court for the time being provided with a stenographer or a steno-typist, subordinate to the High Court.
- (3) They shall come into force with immediate effect.

2. **Definitions:-** In these rules, unless the context otherwise requires:-
  - (a) Copy means certified copy of typewritten appealable interim order/Judgment prepared in accordance with these rules.
  - (b) 'Code' means the Code of Civil Procedure, 1908.
  - (c) 'High Court' means the High Court of Punjab and Haryana at Chandigarh.
  - (d) All other words and expressions used in these rules but not defined shall have the meaning respectively assigned to them in the Code.
3. **Persons entitled to obtain copy:-** Any party to a civil case including proceedings of a civil nature shall be entitled to obtain copy from the Court if an application is made to the Presiding Officer of that Court at any time before the conclusion of arguments.
4. **Duty of the Court to inform the parties and their pleaders as to their right for supply of copies:-** The Court shall, before the commencement of arguments, inform the parties and their pleaders present in Court as to their right to the supply of a copy if an application is made by them at any time before the conclusion of arguments.
5. **Procedure for submission of application:-** An application for a copy shall be made by the party, his authorised agents or by his pleader on a plain paper bearing a Court fee stamp of 40 paise apart from the court fee stamp, if any, to cover the cost of a copy.
6. **Charges for copy and manner of payment thereof:-** Copying fee shall be charged @ Rs. 2/- per page subject to minimum of Rs. 5/- and for each additional carbon copy Rs. 1/- per page which shall be paid by the applicant in the form of court fee stamps before taking delivery of the copy.
7. **Preparation of copies by stenographers, stenotypists:-** The stenographers or the steno-typists as the case may be, shall prepare as many extra carbon copies of appealable interim order/judgments as are applied for by the parties or their pleaders within the prescribed time-limit at the time of transcription of interim order/judgment pronounced by this Court.
8. **Endorsement on copies:-**
  - (1) The stenographer or the steno-typist as the case may be, who prepared the copy, shall make thereof the following endorsement:-

*“Certified to be a true copy”*

and shall sign and date the endorsement and also subscribe his official designation below which he shall make the following further endorsement:-

*“Authorised by Section 76 of the Indian Evidence Act, 1872.”*

- (2) If the copy is on more than one sheet of paper, he shall endorse the word “attested” on every such sheet and shall enter his initials and the date there under. He shall at the same time cancel the Court fee stamps on the application, if not already done and also those representing the cost of the copy.
9. **Recovery of copying fee and supply of copy:-** The stenographer the steno-typist, as the case may be before delivering copy to the applicant ensure that the prescribed copying fee charges have been duly recovered in the form of Court fee stamps.
10. **Account of income in register:-**
- (1) The stenographer or the steno-typist, of every civil court shall maintain a register showing therein each day’s income from the supply of copies and other particulars in the following form:-
- (i) serial No.
  - (ii) date of application.
  - (iii) date of pronouncement of judgment.
  - (iv) number and title of the case.
  - (v) name of the applicant.
  - (vi) number of pages of the judgment.
  - (vii) amount recovered as copying charges
  - (viii) date of delivery of copy, and
  - (ix) remarks by the Presiding Officer of the Court.
- (2) After the close of each month, he shall total the income and prepare a statement of monthly income which shall be sent by him after being countersigned by the Presiding Officer of the Court by the 15<sup>th</sup> of succeeding month to the Officer Incharge of the Copying Agency which is required to supply copies of the records of that Court.
11. 40 per cent of the income derived from the supply of copies prepared by a Stenographer or steno-typist as the case may be, shall be paid to him by the Officer Incharge of the Copying Agency within a period of 15 days from the receipt of statement under Rule 10 out of the contingent grant of the Court.

**(Punjab and Haryana High Court Notification No. GSR. 85/257/CA/1908/R6B and 20, Order XX/82 dated 5<sup>th</sup> August, 1982.)**