

## PART B.—FEES OF COUNSEL

*Rules made by the High Court under the powers conferred by section 27 of the Legal Practitioners' Act, 1879, fixing and regulating the fees payable by any party in respect of the fees of adversary's Advocate, Pleader Vakil or Attorney, upon proceedings in Civil Courts subordinate to the High Court.*

## Rules

<sup>[44]</sup> [1. In suits for the recovery of money or of specific property, or a share of specific property, whether immovable or movable, or for the breach of any contract for damages :—

Suit for recovery of property, breach of contract or damages.

- (a) if the amount or value of the property, debt or damages decreed shall not exceed Rs. 25,000 at 10 per cent on the amount or value decreed.
  - (a) if the amount or value shall exceed Rs. 25,000 and not exceed Rs. 50,000 on Rs. 25,000 at 10 per cent and on the remainder at 8 per cent.
  - (c) if the amount or value shall exceed Rs. 50,000 and not exceed Rs. One lakh, on Rs. 50,000 as above, and on the remainder at 4 per cent.
  - (d) if the amount or value shall exceed Rs. 1,00,000 and not exceed Rs. 5,00,000 on Rs. 1,00,000 as above and on the remainder at 2 per cent.
  - (e) If the amount or value shall exceed Rs. 5,00,000 on Rs. 5,00,000 as above and on the remainder at one per cent subject however that in no case the amount of fee shall exceed Rs. 20,000.
1. A. In the case of:-
- (i) Summary suits under Order XXXVII of the first schedule to the Code of Civil Procedure, 1908, where the defendant does not appear or where leave to defend is refused or where a decree is passed on the defendant failing to comply with the condition on which leave to defend was granted and appeals against decrees in such suits;
  - (ii) Suit, the claim in which is admitted but only time or instalment for payment is asked for;
  - (iii) Suit which is got dismissed by a plaintiff for want of prosecution before settlement of issues or recording of any evidence, except evidence under rule 2 order X of the Code of Civil Procedure;
  - (iv) Suit which is withdrawn before the settlement of issues or recording of any evidence except evidence under rule 2 of Order X of the Code of Civil Procedure;
  - (v) Suit in which judgment is given on admission under rule 6 of order XII in the First Schedule to the Code of Civil Procedure 1908, before the settlement of issues recording of any evidence except evidence under rule 2 of Order X of the Code of Civil Procedure;

- (vi) )Short causes, commercial causes and long causes in which no written statement is filed, and appeals from decrees in such suits;
- (vii) )Suits compromised before the settlement of issues or recording of evidence except evidence under rule 2 of order X of the Code of Civil Procedure;
- (viii) i)Any formal party to a suit or appeal e.g. a trustee or estate holder who only appears to submit to the orders of the court and asks for his costs;
- (ix)A suit or appeal which has abated;
- (x)A plaint returned for presentation to the proper Court, the amount of Advocate's fees to be allowed shall be fixed by the Court disposing of the matter and shall not exceed of that payable according to the rate specified in rule 1 above:
  - <sup>1</sup>[Provided that in no case falling under this sub-rule the Advocate's fees shall be less than Rs. 1500/-.]

1B. An Advocate who has been employed by the heirs of deceased party is not entitled to have fresh fees taxed.

1C. When a case after regular hearing is referred to a larger Bench / counsel shall be entitled to fee for appearing before the larger Bench on the same scale as was payable for appearing before the Bench that referred the matter to larger Bench.

1D. Where two counsel are required by rules to represent a party, the fees of the junior counsel shall be equal to two-thirds that of the senior counsel's fee.

Explanation.- As counsel designated as senior counsel are required to appear with junior counsel in every case in which a senior counsel appears, junior counsel shall be entitled to fee equal to two-thirds that of senior counsel's fees.)]

<sup>[45]</sup> <sup>1</sup>[2. In suits for injuries to the person or character of the plaintiff, such as for assault or defamation or for injuries to the property, or to enforce rights where the pecuniary value of such injury or right cannot be exactly defined, as in suits for interference with a right or light or water, or to enforce a right of pre-emption, or suits for the partition of joint property where partition is improperly resisted or any other suit of the kinds specified in the rules made by the High Court under section 9 of the suits Valuation Act, 1887 for the valuation of suits which do not admit of being satisfactorily valued. If the plaintiff succeeds, the court may order the fee allowed to the plaintiff to be recalculated with reference either to the amount decreed

or according to the valuation of the suit according to such a sum as the Court shall fix with reference to the importance of the subject of dispute but the same shall not be less than Rs. 1,500/- and shall not exceed Rs. 15,000/-.

2a. In any miscellaneous proceedings including arbitration proceedings, probate cases or cases under other statutory provisions or for any matter other than that of appearing acting or pleading in a suit prior to decree, the fees shall not exceed:-

- (i) Rs. 20,000/- in the Court of a District Judge or of an Officer exercising the powers of a Subordinate Judge of the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> class or in a court of small causes.
- (ii) Rs. 1,000/- in the court of an officer exercising the powers of a Subordinate Judge in respect of cases of the value of which is below Rs. 10,000/-.]<sup>1</sup>

2b. In execution proceedings or in appeals in execution proceedings, the advocate's fee to be allowed shall be one-fourth of the fee calculated at the rates specified in Rule (1) on the amount or value of the relief or money claimed in the application to execute the degree. Such fees shall be charged only on the first application and on any subsequent contested application.

*Note.*—The words "Valuation of the suit" in the above rule mean the value of the suit as determined for purposes of jurisdiction by the rules made by the High Court, under section 9 of the Suits Valuation Act, 1887\* (*See Chapter 3 of this Volume*)]

Fees allowed to defendant.

3. If the suit be dismissed for default, or upon the merits, the fee allowed to the defendant shall be calculated according to rules 1 and 2 on the value of the suit.

Fees in case plaintiff's case only partially decreed.

3. If the suit shall be decreed for the plaintiff as to part only of the claim, and as to the remainder shall be dismissed, the fee allowed to each party shall be fixed with reference to the value of that part of the claim in respect of which he shall succeed, and shall be calculated according to rules 1 and 2. .

Suits for damages.

3. If in any suit for damages the plaintiff shall succeed as to the whole of his cause of action, but shall fail to recover the full amount of damages claimed, the defendant shall not be entitled to any allowance in respect of the difference between the amount of damages claimed and the amount recovered, unless the Court shall be of opinion that the amount claimed for damages was unreasonable or excessive, and shall for that or any other cause to be specified direct that a fee shall be allowed to the defendant.

If specially allowed, the amount of such fee shall be fixed with reference to the amount of damages disallowed to

the plaintiff, and shall be calculated according to rule 1.

Several  
defendants.

3. If several defendants, who have a joint or common interest succeed of a joint defence or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order for a reason which shall be recorded. If only one fee be allowed, the Court shall direct to which of the defendants it shall be paid, or shall apportion it among the several defendants in such manner as the Court shall think fit.

Ditto.

7. If several defendants, who have separate interest, set up separate distinct defences and succeed thereon, a fee for each of the defendants who shall appear by a separate counsel may be allowed in respect of his separate interest. Such fee, allowed, shall be calculated with reference to the value of the separate interest of such defendant according to rule I.

<sup>[46]</sup>8. [Deleted]

Undefended  
suits.

9. If a suit in any Court of original jurisdiction be undefended, the fee shall be calculated at one-half the sum at which it would have been charged had the suit been defended.

Review.

10. If a review be rejected after summoning the opposite party, or if, after the admission of a review, the former judgment be upheld, the fee, if allowed to the successful party in the review, shall be fixed by the Court at an amount which shall not in any case exceed one-half of the amount allowed by these rules in case of an original decree.

Ditto.

11. If, after the admission of a review, the former judgment be revised, the fee in respect of the review, if allowed to the party who succeeds in the review, shall not exceed one half of the amount allowed by these rules in case of an original decree. The fee allowed in respect of the review will be irrespective of any fee which may be included in any costs in respect of the original suit, which may be adjudged to the successful party by the judgment in review.

Appeals.

12. In appeals, the fee shall be calculated on the same scale as in the original suits, and the principal of the above rules as to original suits shall be applied, as nearly as may be.

Several  
appellants.

13. When the interest of several appellants is joint, Several appellants not more than one fee shall be allowed, unless the Court shall otherwise order. If one fee only be allowed, the Court shall direct to which of the appellants it shall be paid, or shall apportion it among the several appellants in such proportion as it shall think fit.

Several  
respondents.

14. If several respondents in one appeal appear by separate pleaders, in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in rules 6 and 7.

Discretion of Courts.  
Remand. Appeal from  
decree passed on  
remand. Issue  
referred for trial to  
lower court.

15. If in any instance, the payment of fees according to the preceding rules shall not appear to the Court to be just and equitable, the Court may exercise its discretion in allowing such fee as may appear just and equitable, but in every case when a fee is allowed, the amount shall be calculated according to rule 1, or according to rule 8, as the case may be;

Provided that, if the decree of a lower Court be reversed on appeal and the case be remanded to the lower Court to be tried upon the merits, the lower Court, on passing its decree, may allow to the successful party such a sum as the Court shall consider to be reasonable, not exceeding half the amount calculated according to rule 1, in respect of the re-hearing, in addition to the full amount calculated according to that scale;

Provided also that, if an appeal be preferred against the decree passed on remand, the fee, if any, allowed by the Appellate Court to the party succeeding in that appeal shall not, unless for a special reason to be recorded, be less than one-quarter, nor more than one-half, of the amount calculated at the rate mentioned in rule 1, if by the decree of the appellate Court remanding the case the same party shall have been allowed a full fee in respect of the former appeal in the suit, either absolutely or conditionally upon his succeeding upon the remand;

Provided also that, if an issue be framed and referred by the Appellate Court for trial by the lower Court, the Appellate Court may, if it thinks proper, allow to the party who shall succeed in the appeal such a sum as the Court shall consider reasonable, not exceeding half the amount calculated at the rate mentioned in rule 1, in respect of the trial of the issue in the lower court, in addition to a full fee in respect of the appeal calculated at that rate.

Certificate as to  
fees to be filed by  
counsel in the  
Court of District  
Judges.

16. Notwithstanding anything contained in these rules and notwithstanding any order of the Presiding Officer, no fee to any legal practitioner appearing in civil appeals, or original suits in the courts of District Judges shall except, as in these rules hereinafter provided, be allowed on taxation between party and party, or shall be included in any decree or order, unless the party claiming to have such fee allowed shall, before the final hearing, file in the court, a certificate signed by the legal practitioner

certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other legal practitioner in whose place he may have appeared.

17. Notwithstanding anything contained in these rules and notwithstanding any order of the Presiding Officer no fee to any legal practitioner appearing in original suits of which the jurisdictional value is over Rs 5,000 (five thousand), pending in the Courts of Subordinate Judges shall except as in these rules hereinafter provided, be allowed on taxation between party and party, or shall be included in any decree or order, unless the party claiming to have such fee allowed shall, before the commencement of the argument at the conclusion of the evidence, file in the court a certificate signed by the legal practitioner certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other legal practitioner in whose place he may have appeared.

Certificate in the Court of Sub Judge.

18. The certificate mentioned in rules 16 and 17 shall state:—

Contents of certificate.

(a) the appeal or suit in respect of which such fee or fees was or were paid;

(b) the date or dates when such fee or fees was or were actually paid to the legal practitioner engaged in the case;

(c) the precise amount or amounts which was or were so paid;

(a) that no portion of such fee or fees has been, or has been agreed to be, returned or remitted or appropriated to the use of any other person by the legal practitioner or by any one acting on his behalf or on behalf of any one who was associated with him in the case; and

(e) the name and address of the person who made such payment;

Provided that when a higher fee that is allowed by the scale is allowed by special order of the Court, a certificate of the payment of the additional fee at any time may be accepted, if filed before taxation, in lieu of the certificate required by these rules.

19. The certificate shall so far as possible, be in the following form:—

District Judge

In the Court of \_\_\_\_\_,

Sub-Judge,

A. B. (add description and residence \_\_\_\_\_  
(Plaintiff or appellant).

*Versus*

C. D. (add description and residence \_\_\_\_\_  
(Defendant or respondent).

For the purpose of having my fee allowed on taxation as against the party or parties, who may be liable for costs under the judgment or order of the Court, I..... in accordance with rule 18 of the rules regulating the fees of counsel in the Court, hereby certify that in the above case the following fees were paid to me as my exclusive fees on the dates and by the person or persons specified below, and that such fees were paid to me.

Before the final hearing of the appeal \_\_\_\_\_ and  
before the commencement of the arguments at the conclusion of the evidence

that no portion of such fees has been, or has been agreed to be returned or remitted or appropriated to the use of any other person by me or by any one acting on my behalf.

Matter	Fee	Date of payment	By whom paid	Address of person who actually made such payment

Signature.....

Date of Signature.....

Address of Legal Practitioner.....

*Note.—I.* In the certificates of the fees filed by legal practitioners engaged by Government in cases in which the Union of India or the State Government is a party or in which the actual party is not Government, but Government servants or some other private persons whose defence Government decides to undertake at public expense, or in which a Municipal Committee or a Local Body or an Improvement Trust is a party, it is sufficient to certify that a fee has been fixed (not paid) by the Legal Remembrancer to Government, Punjab, or other appropriate authority, as the case may be.

*Note. II.* The provisions of Note I shall apply, *mutatis mutandis* in cases in which legal practitioners are engaged by the Custodian of Evacuee Property either in his own behalf or on behalf of the evacuees.