

CHAPTER 9

Witnesses—Criminal Courts
PART-A.--EXPENSES

(a) Rules made by the Punjab Government under the powers conferred by Section 544 of the Code of Criminal Procedure, 1898, regulating the payment of subsistence and travelling allowance to witnesses attending trials, etc., in Subordinate Courts.

RULES

1. The Criminal Courts are authorised to pay, at the rates, specified below; the expenses of complainants or witnesses—(1) in cases in which the prosecution is instituted or carried on by or under the orders or with the sanction of the Government, or of any Judge, Magistrate, or any other public officer, or in which it shall appear to the presiding officer to be directly in furtherance of the interests of the public service, (2) in all cases entered in column 5 of Schedule II appended to the Code of Criminal Procedure, as not bailable, (3) in all cases which are cognizable by the Police, and (4) of witnesses in all cases in which they are compelled by the Magistrate, of his own motion, to attend under section 540 of the Code of Criminal Procedure.

Cases in which Government is to pay the Expenses.

2. No payment shall be made by Government to witnesses summoned at the instance of the complainant under section 244 of the Code of Criminal Procedure, unless the prosecution appear to the Magistrate to be in furtherance of the interests of public justice, but under this section the Magistrate may require the complainant to pay their expenses'.

Expenses of witnesses in summons cases.

3. The expenses of witnesses in trials before courts of Sessions shall like ordinary contingent expenditure be met by the Sessions Judge himself out of his permanent advance, the expenditure on his account being recouped when necessary from the grant under the head

Expenses of witnesses in Session trials

[3]"214-Administration of Justice-(d)Criminal Courts". Chief Judicial Magistrates at the District headquarters and Judicial Magistrates posted outside the district headquarters, if there be only one, and the senior most of them, if there be more than one, are drawing and disbursing officers and Districts and Sessions Judges are Controlling Officers" for allotments and expenditure under this head. Under paragraph 12.5 of the Punjab Budget Manual, allotments for all heads including "Diet and Road money to witness" under 'sub-head (d) Criminal Courts' are placed at the disposal of District and Sessions Judges and they may retain whatever amount they consider necessary at their own disposal, and to allot the balance to disbursing officers for expenditure.]

In cases tried by Additional Sessions Judges, payment to witness should be made by Additional Sessions Judge concerned himself-

- (a) out of his own permanent advance, if he is an ex officio Additional Sessions Judge,
- (b) otherwise, out of an advance placed at his disposal by the Sessions Judge of the District from his own permanent advance.

(a) Will result in expenditure on account of one district being debited to the allotment of another district, but will be in accordance with the spirit of the rule laid down in Rule 8.23 of the Punjab Financial Rules, Volume I, which requires that expenditure incurred by an officer on behalf "of another officer of the same department should be treated as an expenditure of his own office."

^[4](i) *Rates of subsistence allowance*, that is, allowance for each day's *necessary absence from residence and attendance* at Courts.

<i>Class</i>	<i>Rate per diem</i> Rs. P.
(a) For ordinary labouring classes	5.00
(b) For witnesses of somewhat higher standard	6.00
(c) For witnesses not included in (a) and (b) above	7.50
(d) For Municipal Commissioners, Income-tax payers and other respectable persons	10.50
(e) For other persons of higher status	14.00
(f) Special rates for witnesses not covered within the scope of the above-mentioned classes	18.00

(ii) *Add the following as Note under (i):—*

"Note.—These rates have been sanctioned by the Punjab Government in their letter No. 7549-JJ 50/3664, dated the 1st August, 1950, and Endt. No. 15679-4J-60/1232, dated the 19th January, 1961, and apply to Criminal Courts in the Punjab. The rates sanctioned by the Delhi Administration for Criminal Courts at Delhi are different and have not been incorporated in this Chapter as they are revised almost every year."

Note 2.—A technical witness, such as a draftsman who appears to give evidence in a criminal case and is required by the Court to prepare a site plan, etc., may be allowed a separate fee for this purpose. The fee for preparing a plan should be commensurate with the work done and should not ordinarily exceed Rs. 50 including the cost of tracing cloth, etc. If, for any special reason, it is considered necessary to pay more than Rs. 50 for the preparation of a plan the sanction of the High Court should be obtained.

The Court which a complainant or witness appears shall determine the class under which the complainant or witness shall be ranked. It has come to notice of the Honourable Judges that Courts have been progressively over generous in classifying witnesses in the 'special' class and in the assessment of what a witness is entitled to receive as expenses. The necessity of a more careful scrutiny in these matters should be impressed upon all Courts.

(ii) Travelling rates.

When the journey is made by rail, for classes (a), (b) and (c) third class fare.

For classes (d) and (e) second or their class fare at the discretion of the Court: —

Provided that second class fare shall not be allowed unless the Court is convinced that the witness is actually in the habit of travelling by that class. For class (f) the fare actually paid.

Note.—Retired Military Officers who were commissioned, gazetted or in pay as officer at the time of retirement shall be included in class (f) and those who retired as Junior commissioned officers or warrant officers shall be included in class (d).

[5] When the journey is made otherwise than by rail, the necessary and actual expenses of carriage may be paid at the discretion of the Court, provided that the expenses incurred do not exceed 45 paise per kilometre in Punjab, 50 paise per kilometre in Haryana and 75 paise per kilometre in Chandigarh and where a witness travels by a private vehicle he may also be paid travelling expenses upto one rupee per kilometre in case of travel by a motor car and upto thirty-five paise per kilometre in case of travel by a motor cycle or a scooter, provided that journey could not, with reference to the age, position and habits of life of the person have been made on foot.

In assessing the amount of actual expenses, the courts should bear in mind that the fares charged by motor buses do not generally exceed one anna per mile. To persons in classes (d), (e) and (f) a further sum may be allowed to cover the cost of carriage hire to and from the court on the days of attendance at Court;}

(iii) Fees for searching for and copying documents required for production in criminal cases shall be allowed to witnesses according to the following scale:—

SEARCH FEES

- (a) For documents not easily accessible. Rs. 5 per document.
- (b) For documents easily traced such as cheques Rs. 2 per documents do not exceed two in number and Re. 1 for each such document beyond that number.

COPYING FEES.

- | | |
|---|--|
| (c) For copying documents
other than entries in Account
Books | At Court rates. |
| (d) For certified copies
of entries in Account
Books. | Rs. 5 per ledger folio or
part of ledger folio where
the number of such
folios does not exceed
four and Rs. 2-8-0 per
ledger folio or part
thereof after the first
four folios. |

Note 1.—When a minor of tender age is required to attend Court as a witness and such a witness cannot safely travel alone, the attendant who accompanies the minor may also be paid expenses at the ordinary rates prescribed for witnesses.

Expenses of
minors' attendant.

Note 2. —These rules intentionally allow the Criminal Courts a discretion as to the payment of witnesses. The circumstances of cases differ, and there are many criminal proceedings in which the prosecution is not called for on public grounds. It is not in every case that the State has undertaken, and is bound to provide the cost of the prosecution. In many instances, moreover, witnesses live at such a short distance from the Court that their being summoned to give evidence cannot be considered to entitle them to remuneration. At the same time, doubtful cases should be interpreted liberally, and in no case should it happen that complainants and witnesses who have been put to trouble and inconvenience in the prosecution of offenders, should be denied their legitimate expenses.

Discretion of
Courts.

Note 3.—It is the duty of the magistrate to ascertain in each case how far the witness has to travel to and from the Court and how many days it takes the witness to travel to the Court to give evidence and to return to his home. Every endeavour should be made to avoid delay in payment of the expenses of

Payment should be
made personally
by the Court and
without delay.

witnesses. As soon as the evidence of the prosecution witnesses in cases launched by the State has been recorded the Magistrate should have the memorandum of costs of witnesses made out and forwarded to the Nazir from whom he should receive and personally disburse the amount to the witnesses before leaving the Court.

Expenses of
Government
servants.

[6] (*Note 4*.—According to Rule 2.80 of the Travelling Allowance Rules framed by the Punjab Government an officer of the Government who is summoned to give evidence of facts which have come to his knowledge or of matters with which he has had to deal in his public capacity in criminal case (including a case before a Court-martial) is entitled to draw travelling allowance from Government. Accordingly the Courts should not grant to Government officers, except in the two cases mentioned below; fees or expenses which may have been deposited in such cases for their travelling and halting or subsistence allowances. The amounts should be credited to Government under the head "A-0650 Other Administrative Services A. Administration of Justice (3) (iii) Services and Service Fees (for fees) Fines and Forfeitures.")

In the case of employees of the Central Government sums on account of road and diet money will be deposited into the Treasury to the credit of Department concerned in the receipt Schedule of Central Departments. In the case of Railway Employees the amount is creditable to the accounts of Railway concerned under the head adjusting account with Railways in the States Section of the Accounts.

Exception—When a Government servant is summoned to give evidence at a Court situate not more than 5 miles from his headquarters or to give evidence of facts which came to his knowledge in his private capacity and is, therefore, not entitled to any travelling allowance under the ordinary rules from Government the Court may, if it considers necessary, pay him the actual travelling expenses incurred.

The practice, prevailing in some districts of requiring the parties to pay the subsistence allowance of a Government servant at the rate of pay of official concerned, is illegal. A Government servant is entitled only to his subsistence allowance at the rates prescribed above for other witnesses.

In all cases in which an officer of Government is summoned to give evidence the Courts should give him a certificate in the prescribed form (A) specifying the dates on which the officer was required to attend and the amount, if any, paid by the Court. The certificate will be attached by the officer concerned to any travelling allowance bill which he may submit under the rules quoted above.

‘A’

Form of certificate to be given by the Court to an officer of Government summoned to give evidence at a Court.

In the Court of the _____ in the _____ District.

1. Certified that _____ *was summoned to give Public evidence in this Court in his _____ capacity in the case of _____ private _____ and was required to attend for a period of _____ days, that is, from the _____ to the _____ 19—

**2. He was paid the following amounts in accordance with the rules of the Courts:—

3. The amount of _____ has been _____ will be _____ Treasury deposited in the local _____ on (date) _____ Sub-Treasury

***To be cut out when nothing in paid.

Note 5.—Individuals subject to the military traveling allowance rules when they are detailed or summoned either as witnesses or accused, to attend a Civil Court in criminal case, are entitled to payment of travelling expenses by the Court only when they are not entitled to free conveyance at the expense of the _____

Expenses of persons subject to Military Travelling Allowance rules.

*Here enter the name and official designation of the officer;

**Paragraph 2 is only required in the following cases namely:—

In cases in which Government servants have to give evidence at a Court situated not more than 5 miles from their headquarters or in their private capacity actual travelling expenses incurred by them may, when the Court considers it necessary, be paid to them.

Army under paragraph 201-II of Passage Regulations, India which is reproduced as under : -

"paragraph 201-II.—Witnesses attending Civil Courts.—An individual detailed or summoned either as a witness or as an accused to attend a Civil Court in a criminal case involving the interests of the State, provided that in the case of a witness the facts as to which he is to give evidence have come to his knowledge in the discharge of his public duties, will be entitled to free conveyance. When such conveyance is provided, a witness may not accept any payment on account of travelling or subsistence allowance from the Court. Any fees which may be deposited in the Court for the travelling and subsistence allowance of the witness must be credited to Government.

If the Court in which he gives evidence is situated within 5 miles (or 10 miles in the case of a mounted officer) of his headquarters and no travelling allowance, is, therefore, admissible for the journey, he may, if he be not in receipt of permanent travelling allowance, accept such payment of actual travelling expenses as the Court may make.

Note.—(1) An individual summoned to give evidence while on leave is entitled to the concessions described in the Rule.

(2) When a witness attends a Civil Court in his private capacity, he is only entitled to such travelling and subsistence allowances as are admissible in accordance with the rules of the Court. If the court pays him any sum as subsistence allowance or compensation, apart from travelling expenses, he must credit that sum to Government before drawing full pay for the day or days of absence. An individual ordinarily eligible to travel on warrant will be entitled to receive advance of travelling expenses for both the forward and the return journeys which will be refunded as soon as such charges are paid to him by the court."

Note 6.—Under the orders of Government, the attendance of the Civil Surgeon at the Criminal Courts of the station for the purpose of giving evidence, is one of his ordinary official duties, and he is not entitled to claim, nor are the Courts authorised to grant a fee: for this duty. When a Civil Surgeon is required to proceed more than five miles beyond the limits of

Expenses of
a Civil
Surgeon.

his station, he is entitled to travelling allowance under the ordinary rules relating to such allowances.

Note 7.—Fees for medico-legal work not falling within the ordinary duties of medical officer, not being a Civil Surgeon or an officer in medical-charge of a civil station shall be rupees sixteen for conducting a *post mortem* examination and rupees ten for conducting a medico-legal examination other than a *post mortem* examination, in cases not falling within the ordinary discharge of his duties, whether or not he is required to give evidence in a Court of Justice in connection with such examination. It is, however, to be distinctly understood that, when such an officer is required, under these circumstances to give evidence in a Court of Justice he shall not be entitled to any remuneration in addition to the fee above sanctioned other than the usual expenses paid to a witness. This Rule applies only to officers of commissioned rank. A fee of rupees four will be paid to a medical subordinate for conducting such examinations when they do not fall within the ordinary scope of his duties. It is however; to be understood that medical subordinates lent by the Government to Municipalities or Dispensary Committees will be required to perform these examinations as a part of their regular duties without further remuneration. (*Government of India, Resolution No. 3050, dated the 11th August, 1882, and letter No. 90 (Home Department), dated the 21st February, 1884.*)

Fees for
medico-legal
work.

Note 8.—Civil Surgeons, Assistant Surgeons and Hospital Assistants should, when summoned to attend a Court in their official capacity, be paid the actual expenses incurred by them on account of carriage hire, when their attendance in Court entails such expenditure. Actual travelling expenses should be paid to an officer who travels in his own car to appear as a witness in a Court.

Expenses of
Civil Assistant
Surgeons and
Hospital Assis-
tants.

Note 9.—The Punjab Government have entered into a reciprocal arrangement with the Himachal Pradesh Government in regard to the payment of the expenses of Government servants summoned by Criminal Courts in Punjab and Himachal Pradesh to give evidence in their official capacity on the following terms and conditions:—

- (i) In criminal cases to which State on the Union is a party, a Government servant giving evidence regarding facts of which he has official knowledge will, on production of the certificate

of attendance issued by the summoning court, be paid travelling allowance by the Government under whom he is serving.

- (ii) In criminal cases to which State is not a party, a Government servant giving evidence regarding facts of which he has official knowledge will be paid travelling allowance by the summoning court according to the rules under which he draws his travelling allowance for a journey on tour, and the charges will be borne by the Chief Commissioner, Himachal Pradesh or the Government of the Punjab according as the court is situated in Himachal Pradesh or in the State of the Punjab.
- (iii) When a Government servant serving in a Commercial Department or when any other officer is summoned to give evidence as a technical or expert witness the pay of the Government servant concerned for the period of his absence from his headquarters and travelling allowance and other expenses due to him will first be borne by the Government under whom he is serving and will subsequently be re-covered from the Government in whose jurisdiction the court in which he is summoned to give evidence is situated.

Note 10.—Rules for payment of fees to expert witnesses summoned in Criminal Courts.

I. When any Court has to form an opinion upon a point of foreign law or science or art or upon the identity of handwriting or finger impressions a person who is called to give an opinion in view of his special skill in such foreign law, science or art or in question of identity of handwriting or finger impressions, is an expert witness and his evidence is expert evidence_

Explanation.—The question whether evidence is expert or not must be judged *by* the purpose for which the witness is called and the nature of the facts to which the witness testifies in examination in chief. Evidence is not to be classed as expert merely on the strength of cross-examination. If the witness is called primarily to testify to facts observed by him in his ordinary or in his professional capacity, his evidence is ordinary evidence. If, however, he is called primarily to give an opinion based on, his special knowledge or skill but not on any previous acquaintance with the facts of the particular case which is before the Court, his evidence is expert evidence.

Examples—(i) A doctor who is called on account of his special knowledge to give an opinion on the question whether a particular person is physically capable of doing an act which is attributed to him gives expert evidence. If he is called to describe injuries which he has himself seen or to attest a certificate of injuries which he has supplied, his evidence is not expert evidence, and it does not become expert evidence even if in the course of his examination he uses technical terms in describing the injuries or if he is asked to give an opinion regarding the effect of the injuries on the constitution of the injured person.

(ii) A goldsmith who was called on account of his technical knowledge to advise the Court where a particular ornament was made would be giving expert evidence, if the opinion was one which could be given by a goldsmith, but it would not be expert knowledge if he was merely identifying an ornament made by himself.

(iii) A small arms expert called from a Government arsenal to state whether the marks on a bullet could be caused by the rifling of a particular kind of rifle or revolver or whether a shot could travel a particular distance gives expert evidence.

II. Subject to the provisions of rules III to V below expert witnesses who happen to be Government servants are bound by the ordinary rules relating to payment of travelling allowance and subsistence allowance to Government servants called as witnesses. These rules are contained in Travelling Allowance Rules 2.80 to 2.81.

III. In any case in which it is absolutely necessary to summon either the Chemical examiner or his Assistant to give evidence in Court, the following fees shall be paid : —

	FOR EACH APPEARANCE IN COURT		Outside station of posting
	At station of posting		
	Rs.	P.	
Chemical Examiner	16	00	Rs.100 with first class railway fare and all travelling expenses.
Assistant Chemical Examiner	10	00	Rs.50 with second class railway fare and all travelling expenses.

In cases in which the above fees are payable to the Chemical Examiner or his Assistant by Government, no payment shall be made. He will draw travelling allowance at the usual rates admissible under the travelling allowance Rule. In other cases in which travelling allowance is admissible under the Travelling Allowance Rules and fees are payable by private persons; such fees should be credited to Government.

IV. The following scale of fees has been prescribed for medical men of different classes summoned as expert witness:

	For giving evidence in a criminal case in a station where he resides	For giving evidence in a station other than the one in which he ordinarily resides
	R S A P	
I. Civil Surgeon or other medical officer of equivalent standing	16 0 0 to 50 0 0	Rs 16 to Rs 50 per diem <i>plus</i> travelling allowance at tour rates
2. Assistant Surgeon ..	10 0 0 to 25 0 0	Rs 10 to Rs 25 per diem <i>plus</i> travelling allowance at tour rates
3. Sub-Assistant Surgeon	4 0 0 to 10 0 0	Rs 4 to Rs 10 per diem <i>plus</i> travelling allowance at tour rates
4. Private medical practitioner	16 0 0 to 32 0 0	Rs 16 to 100 per diem provided that the sanction of the High Court is obtained to any fee over Rs 32 per diem plus actual travelling allowance

- (1)) If a Government medical officer is summoned by the Court at the instance of the state, he should be treated as being on duty and he should be allowed to draw his travelling and daily allowance under the Punjab Travelling Allowance Rules; if the Court is situated away from his headquarters, if the Court is situated at his headquarters, he should not be paid anything.
- (2)) If such an officer is summoned by the Court at the instance of a private person or party, such attendance in the Court should be regarded as private practice of the nature of expert evidence and should be regulated as follows : -
- (i) The Officer may accept the fee within the limit Prescribed above with the sanction of the Court concerned. If, however, in any individual case it is considered necessary by the Court that a fee

in excess of the prescribed limit should be allowed, this should be done with specific sanction of Government in each cases, which should be obtained through the Head of the Department in which the officer, is serving.

- (ii) The apportionment of the fees realized from private persons or parties between Government and the medical officer would be in the ratio of 50 : 50 but the accounting purpose it would be. in the first instance, necessary that the full amount realized should be credited to Government, the share of the officer being Thereafter drawn from the Treasury on a refund bill.
- (iii) The officer's travelling and subsistence allowance should be paid by the private person or party at whose instance he may have been summoned.

V. In the case of certain other particular experts special fees have been fixed as follows:—

	For giving evidence in a criminal case in a station where he resides	For giving evidence in a station other than the one in which he ordinarily resides
1. Government examiner of Questioned Documents		<i>see Annexure.</i>
2. Officials of the Finger Print Bureau	No fees	No fees.
3. Non-official handwriting experts	Rs n P 16 00 to 32 00	Rs 16 to Rs 100 per diem provided that the sanction of High Courts is obtained to any Payment at rates exceeding Rs 32 per diem <i>plus</i> actual travelling expenses.
4. Registered Accountants as defined in rule 12 of the Auditor's Certificate Rules, 1932	Rs 50 to 150 according to the professional standing of the witness, for each day spent in attendance	Rs 50 to Rs 150 according to professional standing of the witness for the day of evidence provided that the sanction of the High Court shall be necessary to the payment of any fees over Rs 75. He will further be entitled to actual travelling expenses, as also to an amount of Rs 25 to Rs 75 Per diem for travelling on a working day other than the day of evidence.

Note-- The Auditor's Certificate Rules, 1932, are published at page 299 of the Gazette of *India*, part I, dated the 20th March, 1932.

VI. In order that payments may be easily checked in audit a clear distinction should be drawn between amounts paid as subsistence allowance and amounts paid as travelling allowance.

*ANNEXURE

(REFERRED TO IN RULE V, NOTE 10).

Rules Regulating Applications for, and payment of the Services of the Government Examiner of Questioned Documents.

1. Applications should be sent direct to the Government Examiner of Questioned Document. Intelligence Bureau, Ministry of Home Affairs. "Dormers"; Simla-1.

2. (i) Applications received direct from private individuals will not be entertained.

(ii) Applications received from Police Officers below the rank of Superintendent of Police will not be entertained.

3. Acceptable applications fall into two classes.

A. Official applications from-

(i) State Governments (including Part C States), and offices subordinate to them,

(ii) Presiding officers of Criminal Courts (including Sessions Courts), High Court, Courts Martial, etc.,

(iii) Ministries of Government of India and their attached and subordinate offices,

(iv) Railway administrations under the Ministry of Railway (Railway Board).

B. Other applications. These include-

(i) Cases from private parties in civil suits in Indian Union Courts. These will be accepted only on the requisition of the court in which the case is being heard. The party concerned must move the Court and it will rest with the court to take the further step necessary to obtain the services of the Government Examiner of Questioned Documents.

*Punjab Government endorsement No. 7206-H-53/62203, dated the 28th August. 1953, on letter No. 41/3/50-Police-II, dated the 6th July, 1953, from the Government of India, Ministry of Home Affairs, to all State Governments.

Explanation-Reference made by a court suo motu in civil cases in which the State is not a party will be deemed to be cases from private parties for the purposes of these rules.

- (ii) Cases from Municipal Corporations, District Boards, Municipalities, and other local bodies and from Universities, Railway Administrations (not under the Ministry of Railways of the Government of India) from autonomous corporation and quasi-Government Bodies, e.g., D.V.C., D.T. 8, etc., with Indian Union.

Applications from recognized universities will be received direct. Applications from Railway Administrations (not under the Ministry of Railway, Government of India) should be submitted through the Agent of the Railway concerned. Applications from municipal corporations will be received direct but from other local bodies will be accepted only if received through the local district magistrate who should satisfy himself, before forwarding the application that it is desirable that the Government Examiner of Questioned Documents should be consulted.

- (iii) Complaint cases, revenue cases, Tenancy Act cases, and other miscellaneous Act cases from Indian Union Courts.

These cases will be accepted only if forwarded by presiding officers of courts.

4. Applications falling under classes A and B will ordinarily be accepted but may be refused at the discretion of the Government Examiner of Questioned Documents if they cannot be undertaken without detriment to his other work.

5. An inclusive fee will be charged in each case in which an opinion is given and will normally cover the opinion, the cost of photographs and the giving of evidence (limited in class B cases to one day). The inclusive fee for class A cases (see rule 3) will be Rs 220 and for class B cases Rs. 250 (This fee does

not cover travelling allowance which is governed by rule 15 below).

Where one Class A case is split up in Court into several cases, a fee of Rs. 150 (one hundred and fifty) will be charged for each split up cases. Similarly, where one Class B case is split up in court into several cases, the fee will be Rs. 200 (two hundred) for each split up case.

6. Subject to the exception stated at the end of this rule, the fee is payable in advance in all cases and each application should be accompanied by a certificate in the following form: —

two hundred and twenty (Rs. 220)

"Certified that sum of rupees _____

two hundred and fifty (Rs. 250)

has been deposited in the _____ Treasury on _____
 on account of the Government Examiner of Questioned Documents' fee in case/suit No. _____ and
 that this amount has been shown under Head :
 XXIII—Police-Central-fees, fines and forfeitures, in the
 Cash Account of Central Subject for the month of _____ and
 appears at item No. _____ in the
 relevant Receipt Schedule.

Countersigned.

Signature of Treasury Officer

Signature of officer submitting the case."

In special circumstances, which should be stated in application, class A will be accepted without this certificate, but the certificate should be forwarded as soon as possible.

7. In cases where the cost of photographs is exceptionally heavy, the fee will be Rs. 180 plus actual cost of the photographs in class A cases and in class B cases, Rs 200 *plus* the actual cost of the photographs.

In class B cases the authority submitting the case will be informed of the extra cost involved before it is incurred and will be required to certify that it has been deposited before the Government Examiner of Questioned Documents proceeds with the case.

8. (A) No fees are chargeable by the Government Examiner of Questioned Documents for the

cases investigated by the Special Police Establishment and also for cases arising in-

- (i) the main Ministries of the Central Government;
- (ii) their attached offices; and
- (iii) Union Territories namely—Delhi, Himachal Pradesh, Tripura, Manipur, Andaman and Nicobar Islands and Laccadive, Minicoy and Amindivi Islands.

(B) Fees are, however, chargeable in all other cases.

9. (i) In cases in which no opinion is given but photographs are taken, only the actual cost of the photographs will be charged, subject to a minimum of Rs. 35.

(ii) In cases in which examination has been completed but no opinion could be expressed, a consolidated fee of Rs. 100 will be charged,

10. No reduction in the fee will be allowed if evidence is not required or is taken on commission:

11. (i) In class B cases an additional fee of Rs. 200 will be charged for each day after the first day on which evidence is given, whether in court or on commission, or on which the officer is detained. The presiding officer or the Commissioner will be requested to certify, before the second and each subsequent day's work is begun, that the fee for that day and also for any intervening day or days of detention has been deposited, and subsequently to furnish a certificate in rule 6 above.

(ii) A fee of Rs. 250 will be charged in class B cases even for the first day's evidence if evidence is taken upon an opinion expressed on the same documents when they formed part of a criminal case.

12. In cases falling under class B, the Government Examiner or his Assistant will be prepared to attend courts provided that he can do so without detriment to his other work. When evidence is taken on commission, the commission should be issued to the Senior Sub-Judge, Simla, and normally should be so worded that either the Government Examiner or his Assistant can give evidence.

13. Presiding Officers of courts are requested to detain the Government Examiner of Questioned Documents or his Assistant for the least possible time compatible with the requirements of the case. They are also requested to accept, so far as possible, the time and dates for attendance offered by these officers, because the latter frequently have to attend several courts in the course of one tour.

14. The Government of India in the Ministry of Home Affairs reserve the right to impose an extra charge in any case in which they consider that the usual fee is incommensurate with the time and labour spent on the case.

15. When the Government Examiner of Questioned Documents or his Assistant is required to travel in order to give evidence or for any other purpose the authority or party employing his services will be required to pay travelling allowance at the rates laid down in the Supplementary Rules of the Government of India for journeys on tour. Travelling allowances will also be payable for the class IV servant accompanying the officer at the rates fixed for Government of India, class IV servants. These payments will be adjusted as directed in the Home Department (now Ministry of Home Affairs) letter No. 128/VII/27- Police, dated the 12th January; 1928 (see Appendix).

In class B cases the presiding officer of the court concerned will be required to certify that the cost of travelling allowance has been deposited before the Government Examiner of Questioned Documents or his Assistant undertakes the journey.

APPENDIX

Procedure for the payment and audit of travelling allowances drawn by the Government Examiner of Questioned Documents or his Assistant during tours,—(vide Home Department letter No. F-128/VII-27, Police, dated the 12th January; 1928).

1. (1) The Examiner or his Assistant should submit his travelling allowance bills to the Accountant-General, Central Revenues, for audit and payment.

(2) As soon as a journey is completed, that is, in respect of any complete journey from headquarters, to headquarters, the Examiner or his Assistant should send a statement to the Accountant-General, Central Revenues, showing the total amount of travelling allowance claimed or drawn and the distribution of the entire amount among various courts for recovery.

(3) In cases where several courts are attended, the cost should be distributed between them in proportion to the distance by rail from headquarters.

(4) As the travelling allowance is debitable to the various local Governments or the Parties concerned, the recoveries should be treated as follows:—

- (i) recoveries from the various State Governments should be taken in reduction of expenditure, provided they are effected within the Accounts of the same year, if not, they should be shown as receipt, and
- (ii) recoveries from parties such as local boards, local bodies and private persons should be taken as receipts under the Head XXIII-Police-Central-Fees, fines and forfeitures.

2. The principles laid down above apply to the payment and audit of the travelling allowance of the peon accompanying the Examiner or his Assistant.

3. If after the Examiner or his Assistant has actually commenced a tour, intimation is received from a court included in the tour to the effect that his evidence would not be required on the date originally fixed, the court shall pay the difference between the total expenditure actually incurred on the tour and the expenditure that would have been incurred if attendance in that court had not been included in the tour. This shall be specifically made clear when the bill is sent to the court for acceptance.

4. The Examiner and his Assistant shall observe the provisions of Supplementary Rule 30 when they frame their programme for tour.

- (b) **Rules made by the Punjab Government, under the powers conferred by section 544 of the Code of Criminal Procedure, regulating the payment of subsistence and travelling allowance to complainants and witnesses attending trials before the High Court, in the exercise of its original criminal jurisdiction.*

RULES

Disbursing
officer

1. All disbursements on account of the expenses of complainants and witnesses attending criminal trials before the High Court, will be made by the Committing Magistrate, and will be adjusted by him.

The Committing Magistrate will determine the class to which each complainant and witness belongs.

In the case of a Cantonment Magistrate committing a case for trial by the High Court, the disbursement of expenses and the payment of advances should be made by the District Magistrate of the district.

Travelling by
road not
allowed

2. Except for any special reason in any particular case, complainants and witnesses travelling at the public expense will not be allowed to travel by road and charge accordingly, when the journey can be accomplished more cheaply and expeditiously by rail.

Committing
Magistrate
dispatch
witness to
high Court

3. The Committing Magistrate, when despatching complaints and witnesses to the High Court will instruct them to report themselves to the Registrar of the Court, on their Arrival at Chandigarh, and will at the same time report to that officer-

- (a) the name of each complainant and witness;
- (b) the class to which he belongs;
- (c) the date of his departure to attend at the High Court;
- (d) whether any, and, if so, what advances have been made to such complainant or witness to enable him to reach Chandigarh.

*These rules also printed in Chapter 4—C, High Court, Rules and Orders, Volume V.

4. When the trial in which the complainant/witnesses have appeared in the High Court is concluded. The Registrar of that Court will intimate to the Committing Magistrate the date of the arrival of the complainants, witnesses at Chandigarh and the date on which it was possible for them to quit the station. The subsistence allowance at Chandigarh will cease as soon after the conclusion of the trial as the means of quitting the station become available.

Registrar to inform Committing Magistrate departure of witnesses

5. The Committing Magistrate may make reasonable advances to complainants and witnesses to enable them to reach Chandigarh, and when necessary the Registrar of the High Court will make advances to them at Chandigarh to enable them to return to their homes. Care should be taken in making these advances that a larger sum is not paid to any complainant or witness than he is entitled to receive under these rules, and before making advances to witnesses for the defence, the Committing Magistrate should satisfy himself that such witnesses are material.

Payment in advance

6. Advances made by the Registrar of the High Court under the preceding rule will be recovered at once from the Committing Magistrate; who will include the amount of such advances in his bill.

Recovery of advances made by Registrar

7. When all the expenses to which complainants and witnesses are entitled under these rules have been paid, the Committing Magistrate will submit a bill for the same, supported by the necessary vouchers, to the Registrar of the High Court for countersignature. The Registrar's countersignature will be sufficient authority to support such charges in the Public Accounts.

Submission of bill by Committing Magistrate

8. These rules apply mutatis mutandis in case of trials held by the High Court elsewhere than at Chandigarh.

Application of rules trials held elsewhere.

9. In the event of a witness being summoned to attend the High Court in a criminal case, Other than a trial before the High Court in exercise of its original criminal jurisdiction; the expenses of such witness

Expenses of witnesses in other cases

will be paid by the Registrar or District Magistrate at such rates as the Court may direct.

Fees of
Superin-
tendent,
Mental
Hospital.

Notes.—(1) The Superintendent of the Mental Hospital, being the Government specialist in lunacy, is not entitled to any fee for giving expert evidence on behalf of Government in High Court.

Fees of
Chemical
Examiner.

(2) The Chemical Examiner or the Assistant Chemical Examiner when summoned to give evidence before the High Court shall be entitled to recover the following fee for each appearance :—

	Rs.
Chemical Examiner	10
Assistant Chemical Examiner	10

(3) As charges under rule 7 are debitable to audit contingencies, vouchers for sum above Rs 25 should accompany the bill sent to the Accountant-General, for audit.

(Punjab Government, *Home /Judicial Department Notification No. 5034-J-56/8467. dated the 13th November, 1956.*)