

## PART I.—FEES OF COUNSEL

Note.—The Honourable the Chief Justice and Judges of the Punjab High Court have been pleased to direct that till such time as fresh rules for fixing and regulating by taxation or otherwise the fee payable as costs by any party in respect of the fees of his adversary's Advocate upon all proceedings in the High Court or in any Court Subordinate thereto, are made under section 16 of the Indian Bar Councils Act, 1926 (XXXVIII of 1926), the existing rules, relating to fees of Counsel, as are contained in Chapter 6-1, High Court Rules and Orders, Volume V. and in Chapter 16-B, of High Court Rules and Orders, Volume I. as the case may be, shall be adopted.

(High Court Notification No. 17 /XIII-F-4, dated the 13th January, 1949),

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

Suits for debt, damages and recovery of specific property.

<sup>[75]</sup>[If the amount of value of the property, debt, damages or decrees does not exceed Rs. 1,00,000 (Rupees one lac) according to the valuation for purpose of appeal to the court, the fee shall be Rs. 4,000 (Rupees four thousand). However, if the value exceeds Rs. 1,00,000 (Rupees one lac) but does not exceed Rs. 5,00,000 (Rupees five lacs), the fee shall be calculated at 4 percent of the value. If the amount of value exceeds Rs. 5,00,000 (Rupees five lacs), the fee shall be calculated at Rs. 20,000 (Rupees twenty thousand) plus 1 percent of the amount in excess of Rs. 5,00,000 (Rupees five lacs), however, that in no case the amount of fee shall exceed Rs. 50,000 (Rupees fifty thousand).]

(b) Deleted.]

**2.** In suits for injuries to the person or character of the plaintiff, such as suits for assault or defamation property or for injuries to 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,—if the plaintiff succeeds, the Court may order the fee allowed to the plaintiff to be calculated with reference either to the amount decreed or according to the valuation of the suit or according to such sum not exceeding the valuation, as the Court shall think reasonable and shall fix with reference to the importance of the subject matter in dispute. In any such case, the amount of the fee shall be calculated according to rule 1.

Suits for injuries to person or property or character. Suits for partition and pre-emption and other rights.

When suit dismissed on merits or default.

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

When suit partly dismissed.

**4.** 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 should 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 rule 1.

Suits for damages when full amount claimed not decreed.

**5.** If in any suit for damages, the plaintiff succeeds as to the whole of his cause of action, but fails to recover the full amount of damages claimed, the defendant shall not be entitled to any allowance for counsel 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, direct that a fee 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.

In case of Several defendants having separate interest.

**6.** If several defendants who have a joint or common interest succeed upon a joint defence, or upon separate defences substantially the same, not more than one fee shall be allowed, unless the Court shall otherwise order. 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.

Several defendants having separate interest.

**7.** If several defendants, who have separate interests, set up separate and distinct defences and succeed thereon, a fee for each of the defendants who shall appear by separate counsel may be allowed in respect of his separate interest. Such fee, if allowed, shall be calculated, with reference to the value of the separate interest of such defendants, according to rule 1.

- 8.** <sup>[76]</sup>[In any miscellaneous proceedings or for any matter other than that of appearing, acting or pleading in a suit prior to decree, the fee shall be fixed by the Court with reference to the nature and importance of the proceedings or matter :  
 Provided that in no case shall the amount allowed in respect of such fee exceed rupees two thousand or below rupees 500 (five hundred).]
- Miscellaneous proceedings.
- 9.** If a suit in the High Court, as a Court of original jurisdiction, be undefended, the fee shall be calculated at one-half the sum fixed for a defended suit of the same nature and value.
- Half fees in undefended suits.
- 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.
- When review is rejected.
- 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 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, unless the Court shall otherwise order.
- When review is accepted.
- 12.** In appeals, the fee shall be calculated on the same scale as in original suits; and the principles of the above rules as to original suits shall be applied, as nearly as may be, in appeals.
- Appeals.
- 13.** When the interest of several appellants is joint, 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 amongst the several appellants in such proportion as it shall think fit.
- Where several appellants have joint interest.
- 14.** If several respondents in one appeal appear by separate counsel, in determining whether separate fees shall be allowed, the Court shall be guided by the principles laid down in rules 6 and 7
- Several respondents.

Discretion of court to deviate from the scale laid in the rules.

**15.** [77][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 :

Fees in case of counsel dealing with dalals and touts.

Provided that in the case of a party represented by any Advocate, Vakil or Attorney (a) who is known or reputed to have any dealing communication or correspondence, directly or indirectly, with a dalal or with any person who frequents any Railway Station, *sarai* or other place as a tout or (b) who is known or reputed to employ in any capacity whatsoever any such person or any person who frequents any Railway Station, *sarai* or other place as a tout, the Court may order that no fee be allowed to such party for such Advocate, Vakil or Attorney or may, in its discretion, allow a fee for the same not exceeding the following sums, that is to say-

- (i) In first appeals from original decrees and in suits before the Court in the exercise of its ordinary or extraordinary original jurisdiction,—Rs.750.
- (ii) In all other cases, the fee allowable under the above rules up to a maximum of Rs.250 :]

Appeals from decrees passed on remand.

Provided also that, if an appeal be preferred against a decree passed on remand, the fee, if any, allowed by the Court to the party succeeding in that appeal, shall not, unless the Court shall otherwise order, be less than one quarter, nor more than one-half of the amount which would be allowed under the rules upon an original hearing, if, by the decree remanding the case, the same party shall have been allowed fees in respect of the former appeal in the suit either absolutely or conditionally upon his succeeding upon the remand :

Fees for trial of issues referred to the lower Court.

Provided also, that if an issue be framed and referred by the Court for trial by a lower Court, the Court may, if it thinks proper, allow to the party who shall succeed in the appeal, such sum as the Court shall consider reasonable not exceeding half the amount which would be allowed under these rules in an original case, for his fee in respect of the trial of the issue in the lower Court, in addition to a fee in respect of the appeal.

**16.** Notwithstanding anything contained in the rules of the Court and notwithstanding any order of a Judge or Judges, no fee for the appearance of any Advocate, Vakild or Attorney 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 Taxation Officer is satisfied that the fee was paid to the Advocate, Vakild or Attorney before the hearing and unless the party claiming to have such fee allowed shall, before the hearing, file in the office of the Taxing Officer, a certificate signed by the Advocate, Vakild or Attorney as the case may be, certifying the amount of the fee or fees actually paid by or on behalf of his client to him or to any other Advocate, Vakild or Attorney in whose place he may have appeared :

Certificate of payment of fees to counsel to be put in before fees are allowed by Court.

[<sup>78</sup>]Provided that in regular first appeals from decrees and cases arising under the Company Law and Indian Succession Act heard before a Division Bench, the taxing officer will allow fees on taxation to a party when at least two counsels have filed certificates of payment of fees on its behalf.]

**17.** Such certificate shall state-

Contents of certificate.

- (a) the case matter or proceeding in respect of which such fee or fees was or were paid ;
- (b) that date or dates when such fee or fees was or were actually paid to the Advocate, Vakild or Attorney engaged in the case, matter or proceeding either as the exclusive fee or fees of such Advocate, Vakild or Attorney or as the fee or fees of the Adocates, Vakilds or Attorneys associated and to be associated in the case, matter or proceeding in the High Court ;
- (c) the precise amount or amounts which was or were so paid ;
- (d) that no portion of such fee or fees has been returned, and that no agreement for return or remission of the same has been made, by the Advocate, Vakild or Attorney or by any one on his behalf ; and
- (e) the name and address of the person who made such payment :

Provided that when a higher fee than 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.

Certificate of payment where higher fees above the scale allowed.

Form of Certificate of payment of fees.

18. The certificate mentioned in rule 16 shall, so far possible, be in the following form :

IN THE PUNJAB HIGH COURT

Between \_\_\_\_\_, and .....

For the purpose of presentation to the Taxing Officer and 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 17 of the rules regulating the fees of counsel in the Court, hereby certify that in the above \_\_\_\_\_ the following fees were paid to me as my exclusive fee

\_\_\_\_\_ was associated (or as my fee as well as that of \_\_\_\_\_ who \_\_\_\_\_ were to be associated \_\_\_\_\_ with me in the case) on the dates and by the person or persons specified below, and that no portion of such fees has been returned and that no agreement for such return or remission has been made by me or by any one on my behalf or on behalf of

\_\_\_\_\_ was ..... who ..... associated with me were in the case.—

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

Signature .....

Date of Signature .....

Address of Advocate, Vakil or Attorney .....

Filed on the.....day of ..... by.....

Note.--In the certificates of fees filed by the legal practitioner engaged by Government in cases in which the Union of India on a State Government is a party, or in which the actual party is not Government but Government Servants or some other 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 fees has been fixed (not paid) by the Legal Remembrancer to Government Punjab, or other appropriate authority as the case may be may. The same procedure may, by a resolution of the Judges in meeting be extended to council appearing on behalf of an Official Liquidator appointed by the High Court.

Matrimonial  
cases.

- 19.** <sup>1</sup>[Counsel engaged in matrimonial cases in the High Court, should when filing a certificate required by rule 16, submit a detail of the work done or to be done by them for which they have charged their clients. Only those charges which are necessary to enable the parties to conduct the litigation will be allowed by the Taxing Officer who will bear in mind that the object in giving costs is to indemnify the successful party against the expenses to which he has been put by the unsuccessful party. The maximum fee in a defended matrimonial cause shall be Rs. 25,000 and half that amount in undefended causes, provided that the Judge, who tries the case may allow the full fee in a undefended cause, should the nature of the work done by counsel warrant it.]

*Note*—For rules regarding fees of counsel in subordinate courts see Parts B and C of Chapter 16 of Volume I.