

## CHAPTER XIV

### COSTS, FEES AND RULES FOR COMPUTING ADVOCATES FEES

#### *Costs*

**1. Advocate's fee to be taxed in bill of costs.** — (i) Where costs are awarded to a party in any proceeding, the amount of the Advocate's fee to be taxed in the bill of costs recoverable by such party, if represented by an Advocate, from his adversary, shall be computed in accordance with the rule in Schedule "A" annexed to this Chapter.

(ii) Nothing contained in this rule or rules 2 and 3 shall apply to fees payable to advocates in the Court of Small Causes of Bombay or to Advocates on the Original Side.

**2. When fee of two Advocates allowed in bill of costs.** — Subject to rule 1 above, where a party has engaged more than one Advocate, in an appeal to the High Court from a decree deciding on the merits —

(a) any suit of which the amount or value of the subject-matter exceeds Rs.10,000: or

(b) any contested proceeding under the Indian Succession Act, XXXIX of 1925, or the Land Acquisition Act, I of 1894, of which the amount or value of the subject-matter exceeds Rs.10,000. a fee of two Advocates shall be allowed in the bill of costs;

Provided that in any appeal from a decree in any suit of which the amount of value of the subject-matter is less than Rs.10,000, the Court may by an order in writing certify that the fee of two Advocates may be taxed.

**3. Double set of Advocate's fees not to apply to pauper appeals.** — The provision of rule 2 shall not apply to appeals by paupers and to cases other than those specified in the said rule.

**4. Advocate's fee when no specific orders as to the amount of cost made by Court.** — When the Court awards costs in any matter without specifying the amount or the scale thereof and the amount thereof is not prescribed under any Act or rule, a sum of Rs.60 shall be allowed as the Advocate's fee.

#### *Fees.*

**5. Process fees to be charged on the Appellate Side of the High Court. — The following fees shall be charged :—** The following fees shall be Charged :-

<sup>1</sup>[I

The following fees shall be levied for serving and executing processes issued by the High Court in its Appellate Jurisdiction: -

(a) Irrespective of nature and valuation of subject matter of dispute for all type of processes like, summonses, notices, warrants, proclamation, injunction orders, sale

notices etc. (other than poundage fees) fees shall be charged at the rate of Rs. 50 for each defendant/respondent/non-applicant or accused.

<sup>2</sup>[(b) Such process fees shall be charged and paid within three days from the date of order passed by the Court issuing notice. No process fee shall be charged for serving the process again on the same set of defendants / respondents / non-applicants / accused or their legal representatives till the proceedings is disposed of by the Court.

Provided that failure to pay the process fee within two weeks from the date of order passed by the Court will result in automatic dismissal of the proceedings for non-prosecution.]

Notes. – (1) The fees prescribed above are to be charged for each individual ordered to be served with process. When one individual is to be served in more than one capacity e.g. personally and also as guardian of a minor or minors, only one set of fee is to be levied. Where process is to be issued for service at more than one place simultaneously against any one individual, an additional fee is to be levied for each place in which process is to be served.

(2) Where process has to be issued in foreign territory, a sum sufficient to cover the fees in that territory shall be paid.

(2)(a) When process is to be served by Registered post, with acknowledgment due, the amount necessary for the same calculated at the prevailing postal rates shall be paid.

(3) For the service of writ of injunction, the fees to be charged shall be at double the above rates.

(4) In case service by more than one modes, simultaneously is prayed/ordered, process fee at the rate of Rs. 50.00 per mode and per defendant/respondent/non-applicant, shall be levied.

1. Substituted vide High Court Notification No. P. 3601/2006, dt.18-10-2006

2. Substituted vide Notification No. P. 3601/2010, dt. 19-04-2010.

<sup>3</sup>||

**Certified Copies –**

**Ordinary**

(a) For copying and comparing inclusive of paper costs.	<sup>3B</sup> A flat rate of Rs. 4.00 per page of manuscript page shall be charged.
(b) For copying map or plan	Maximum Rs.25 to minimum Rs.5 as the Assistant Registrar may determine

<p>(c) For copying and comparing copies prepared on Photocopying Machine</p> <p><sup>3A</sup>(d)The Court Fee Stamps of Rs. 5 or as may be prescribed by the State Government from time to time hereinafter, under the Bombay Court Fees Act, shall be affixed on application for issue of Certified Copies.</p> <p>Fees Act, shall be affixed on application for issue of Certified Copies.</p>	<p>Rs. 4.00 per page</p>
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**Urgent**

<p>(e) For copying and comparing inclusive of paper costs</p> <p>(f) For copying and comparing copies prepared on Photocopying Machine</p> <p>(g) For comparing private copies produced for certification.</p> <p><sup>3A</sup> (h) The Court Fee Stamps of Rs. 5 or as may be prescribed by the State Government from time to time hereinafter, under the Bombay Court</p>	<p>A flat rate of <sup>3B</sup> Rs.7.00 shall be charged per page or manuscript page.</p> <p>Similar rates as prescribed above.</p> <p>Rs.1.50 per page shall be charged.</p>
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3. Substituted by Notification No. P. 4501/1988, Dt. 27-11-1990.

3A. Substitute by Notification No. P 3602/2004, Dt. 29-08-2006

3B. Substitute by Notification No. P. 3601/2006. Dt. 19-01-2007

Providing that the certified copies of any document shall be supplied free of costs to the Registrar when the same are required by him for the purposes of any prosecution or proceeding which is filed by him under the directions of this Court or under the administrative orders of the Honourable the Chief Justice or the Administrative Judges or for use in any proceeding in which he is or is made a party in his official capacity.

**N. B.** — All amounts excluding fractions of a rupee, if there be any shall be sent to the parties by Money Order after deducting Money Order Commission there from and the balance of the amount in fractions of a rupee shall be retained in Office after intimation to the parties on Money Order coupon that if the same are not collected either personally or through an Advocate the same shall be credited to Government after a period of one year]

### III

#### Search –

(a) Of the records of a case.	Re.1 per day
(b) Of registers prescribed under the rules	Re.1 per each register
<b>IV</b>	
(a) For administering every oath or solemn affirmation.	Re.1
(b) For interpreting affidavits service of notice to parties	Re.1
(c) For interpreting affidavits in other cases and for interpreting petitions, etc.	50p. per folio of 100 words

**6. Exemption to members of Scheduled Tribes from payment of process fees.** — The members of the Scheduled Tribes specified in Schedule "B" appended to this Chapter are exempted from payment of process fees. This Rule shall be effective retrospectively from and inclusive of the 7th day of September 1964 and shall remain in force until further orders.

#### SCHEDULE "A"

*Rules for computing the Advocate's fee.*

**I. Advocate's fee in cases decided on merits.** — (a) In suits which decide on the merits the real dispute between the parties;

(b) In appeals from decrees (including preliminary decrees) other than appeals from execution, proceedings which decide on the merits the real dispute between the parties;

(c) In applications, proceedings or appeals which decide on the merits the real dispute between the parties under the —

(i) Indian Succession Act, XXXIX of 1925, excepting applications or appeals falling under sub-clauses (ii) and (iii) of clause (e) of Rule VI.

(ii) Land Acquisition Act, I of 1894;

the amount of the Advocate's fee shall be computed on the amount or value of the subject matter in dispute in the suit, appeal, application or proceeding at the rates specified below :—

If the amount or value of the subject-matter in dispute does not exceed Rs.2,000 at 7 1/2 per cent.

If such amount or value exceeds Rs.2,000 but does not exceed Rs.5,000; on Rs.2,000 as above and on the remainder at 5 per cent. If such amount or value exceeds Rs.5,000, but does not exceed Rs.10,000, on Rs.5,000 as above and on the remainder at 2 per cent.

If such amount or value exceeds Rs.10,000, but does not exceed Rs.20,000, on Rs.10,000 as above and on the remainder at 1 per cent.

If such amount or value exceeds Rs.20,000, on Rs.20,000 as above and on the remainder at 1/2 per cent.

**Exception.** — The amount of Advocate's fee in a suit, appeal, application or proceeding between landlord and tenant shall be calculated on the amount or value of the claim for the purpose of Court-fees and not on the amount or value of the claim for the purposes of jurisdiction;

Provided that the amount may, at the discretion of the Court, be calculated on the amount or value of the claim for the purposes of jurisdiction when the Court is of the opinion, having regard to the labour involved in the preparation of the case, or to the complexity of the issue arising therein, that the higher rate, of valuation is appropriate.

**II. (a) Advocate's fee in Appeals from Orders.** — In appeals from Orders,

**(b) Advocated fee in applications and other proceedings.** — In civil applications or proceedings other than applications and proceedings necessary for the progress of a suit or appeal and other than applications arising in or out of applications, proceedings or appeals falling under Rules V and VI below.

**(c) Advocate's fee in all other cases.** — In all other cases not otherwise provided for, the amount of the Advocate's fee to be allowed shall be 1/4 of that payable according to the rates specified in Rule I

**III. Advocate's fee shall be taken to be the remuneration for Advocate's services.** — The fee prescribed in Rules J and II shall be taken to be the remuneration for the Advocate's services until the final decree or order in the suit, appeal, application, reference or proceeding is passed.

**IV. Advocate's fee in execution proceedings or in appeals in execution proceedings.** — In execution proceeding or in appeals in execution proceedings, the Advocate's fee to be allowed shall be 1/4th of the fee calculated at the rates specified in Rule I on the amount or value of the relief or money claimed in the application to execute the decree. Such fee shall be chargeable on the first application and on every subsequent contested application.

**V. Advocate's fee in applications under Article 226 or Article 227 of the Constitution.** — The Advocate's fee shall be Rs.100 in an application made under

Article 226 of the Constitution and Rs.75 in an application made under Article 227 of the Constitution;

Provided that the Court hearing such applications may, having regard to the labour involved in the preparation of the case or the complexity of the issues arising therein or for any other sufficient reason, allow such higher fees as it deems proper.

**VI. Advocate's fee in certain cases, —** (a) In any reference made to the High Court under section 113 of the Code of Civil Procedure, V of 1908.

(b) In any application to the High Court under section 23 of the Provincial Small Cause Courts Act, IX of 1887.

(c) In any application to the High Court under section 25 of the Provincial Small Cause Courts Act, IX of 1887.

(d) In any application for the exercise of the High Court's revisional jurisdiction in civil matters

(e) In all applications or appeals under:—

- (1) the Guardians and Wards Act, VIII of 1890,
- (2) Part X of the Indian Succession Act, XXXIX of 1925,
- (3) Part VII of the Indian Succession Act, XXXIX, of 1925,
- (4) the Indian Trust Act, II of 1882,
- (5) the Provincial Insolvency Act, V of 1920.
- (6) any other special or local Act,

a sum of Rs.60 shall be allowed as the Advocate's fee.

**VII. Minimum Advocate's fee.** — In no case, whether specially provided for in this Schedule or otherwise shall the Advocate's fee payable in any civil suit, appeal (including an appeal from execution proceedings), application or proceeding other than execution proceedings, be less than,-

(a) Rs.60 in the High Court,

(b) Rs.20 in a District Court,

(c) Rs.20 in the Court of a Civil Judge, subject to the provisions of clause (d) and the proviso below,

(d) Rs.10 in the Court of a Civil Judge in suits of the nature cognizable by a Court of Small Causes or in the Court of a Mamlatdar under the Mamlatdars Court Act, II of 1906:

Provided that suits by a superior holder for the recovery of his dues in the Court of a Civil Judge shall be governed by clause (d) and not by clause (c), unless in the opinion of the Court the suit involves questions of a complicated nature affecting title to land.

<sup>4</sup>[VIII. A surcharge of 100 percent shall be allowed on the fixed or ad valorem fees under the existing rules, in all cases where addition of 100 per cent surcharge would increase the Advocates Fees to any amount upto Rs.300 and the surcharge of 25 per cent shall continue to be allowed on the remainder.

4. Substituted by Notification No. P. 0115/68, Dt. 23-12-1982.

**Illustration I.** — If the Advocates' fees as per the rates existing prior to 22nd February 1977 would be upto Rs.150 there will be an increase by 100 per cent and therefore the fees will be calculated double the said rate.

**Illustration II.** — If the Advocate's fees as per rates prior to 22nd February 1977 exceed Rs.150 the fees upto Rs.150 would be increased by 100 per cent and those remaining in excess of Rs.150 would be increased by 25 per cent. For example, if the fees are Rs.200 there will be an increase of 100 per cent for Rs.150 and for the balance of Rs.50 there will be an increase of 25 per cent. Thus the total fees would be increased to Rs.362.50 P.]

#### **SCHEDULE "B"**

(Members of the Scheduled Tribes exempted from payment of the process fees)

#### **Maharashtra**

1. Andh.
2. Baiga.
3. Barda
4. Ravacha, Bamcha
5. Bhaina.
6. Bharia Bhumia, Bhulahar, Bhunma. Pando.
7. Bhattra.
8. Bhail, Bhil Garasia, Dholi Bhil, Dungri Bhil. Dungri Garasia, Mewas Bhil, Rawal Bhil. Tadvil Bhi!, Bhagalial, Bhilalal, Pawral, Vasaval, Vasavel
9. Bhunjial.

10. Binjhwar.
11. Birhul, Birhor.
12. Ghodhara (excluding Akola, Amravati, Bhandara, Buldhana, Chandrapur, Nagpur, Wardha, Yavatmal, Aurangabad, Beed, Nanded. Osmanabad and Parbhani District).
13. Dhanka, Tadvi, Tetaria, Valvi
14. Dhanwar.
15. Dhodia.
16. Dobra, Talavia, Halpati
17. Gamit, Gamta, Gavit, Mavchi, Padvi,
18. Gond Rajgond, Arkh, Arrakh, Agaria, Asur, Badi, Maria, Bada Maria, Bhatola, Bhimma, Bhuta, Koilabhuta, Bhar, Disonhorn Maria, Chota Maria, Dandami Maria, Dhuru Dhurwa, Dhoba, Dhulia Dorla, Gaiki, Gatta, Gatti, Gaita, Gond Gowari, Hill Maria, Kandra, Kalanga, Khatola, Koitar, Koya, Khirwar, Khirwara, Kucha Maria, Kuchaki Maria, Madia, Maria, Mana, Mannewar, Moghya, Mogia, Monghya, Mudia, Muria, Nagarchi, Naikpod, Nagwanshi, Ojha, Raj, Sonjhari Jhareka, Thatia, Thotya, Wade Maria, Vade Maria.
19. Halba, Haibi.
20. Kamar.
21. Kathodi, Katkari Dhor Kathodi, Dhor Kathkari, Son Kathodi, Son Katkari.
22. Kavar, Kanwar, Kaur Cherwa Rathia, Tanwar Chattri.
23. Khairwar.
24. Kharia.
25. Kokna, Kokni Kukna.
26. Kol.
27. Kolam, Mannervarlu.
28. Koli, Dhor, Tokre Koli, Kolcha, Kolgha.
29. Koli Mahadev, Dongar Koli.
30. Koli Malhar.

31. Kondh, Khond, Kandh.
32. Korku, Bopchi, Mouasi, Nihal, Nahul, Dondhi Bondeya.
33. Koya, Bhine Koya, Rajkoya.
34. Nagesia, Nagasia.
35. Naikda, Nayaka, Cholivala, Nayaka, Kapadia Nayaka, Mota Nayaka, Nana Nayaka.
36. Oraon, Dhangad.
37. Pardhan, Pathari, Saroti.
38. Pardhi, Advichinchar, Phans Pardhi, Phanse Pardhi, Langoli Pardhi, Bahelia Bahellia, Chita Pardhi, Shikari, Takankar, Takia.
39. Parja.
40. Patelia.
41. Pomla.
42. Rathawa.
43. Sawar, Sawara.
44. Thakur, Thakar, Ka Thakur Ka Thakar, Ma Thakur, Ma Thakar.
45. Thoti (in Aurangabad, Beed, Nanded, Osmanabad and Parbhani district and Rajura tahsil and Chandrapur district).
46. Varli.
47. Vitolia, Kotwalia, Barodia.

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