

**PART IV****CHAPTER XX**

## Fees and Costs.

## (A) PROCESS FEES

1. The rules of this chapter, framed by the High Court under clause (i) of section 20 of the Court-fee Act (VII of 1870), regulate the fees chargeable for serving and executing processes by the High Court.

2. The fees in the following table shall be charged for serving and executing the several processes against which they are respectively ranged when issued by the High Court in its appellate jurisdiction: -

	Rs.	P
Article 1 - In every case in which personal or substituted service of any Process on parties to the cause is required, where not more than Four persons are to be served with the same documents, one fee.	4.50	
When such persons are more than four in number, then the fee Above-mentioned, and additional fee of seventy-five paise for every such person in excess of four :	0.75	

Provided that in the last-mentioned case where such persons reside in the same or immediately adjacent villages, the additional fee may be such sum, not exceeding the amount of the fee prescribed as the High Court may, in the particular case, determine :

Provided also that in analogous cases, where the appellant is the same but the respondent are different, but residing in the same of immediately adjacent villages, the same rule shall apply.

Article 2 – In every case in which personal or substituted service of any process	Rs.	P.
on any persons who are not parties is required, when the number 4. 50 of such person is not more than four, one fee.		
When there are more than four such persons, then the fee above 0. 75 mentioned for the first four, and an additional fee of seventy-five paise for every one in excess of that number.		
Article 3 - For the execution of a warrant for arrest of the person	4.	50
Article 4 - For service of execution of any process issued by the Court, not Specified in any preceding article of this part.	4.	50

3. Notwithstanding anything in the preceding rule, no fee shall be chargeable for serving or executing :-
- (i) any process which may be issued by the Court of its own motion solely for the purpose of taking cognizance of and punishing any act done or word spoken in contempt of its authority ;
  - (ii) any process issued a second time in consequence of an adjournment made otherwise than at the instance of a party ;
  - (iii) any copy of a summons, notice, order, proclamation of other process fixed up in a Court-house or in the office of a Collector ;
  - (iv) any order directing an officer-in-charge of a jail to detain or release a person committed to his custody.
4. The fees here in before provided shall be payable in advance at the time when the petition for service of execution is presented and shall be paid by means of Court-fee stamps affixed to the petition in addition to the stamps necessary for its own validity.
5. In any district or part of a district when, in order to serve any process, the peon has to cross a ferry, the amount, if any legally payable as toll, shall be paid by the Court executing such process from its permanent advance.
6. In cases in which the process is to be served is in the jurisdiction of another Court the proper fee chargeable under Rules 1 and 2 shall be levied, in the manner above directed, on the application for the transmission of the process to that Court, and a note shall be made on the process stating that this has been done. A Court which receives from another Court, whether in the same State or not, a process bearing a certificate that the proper fee has been levied, shall cause it to be served without further charge.
7. Fees for processes to be issued by a Court to which a commission is addressed shall be payable at the rates chargeable for serving and executing processes issued by such Court.
8. Except as hereinafter provided no fee paid in respect of a commission shall be refunded, if the order in respect of which the fee has been paid has been passed.
9. When in consequence of a compromise or for some other reason it becomes unnecessary to serve or execute the summons, notice, warrant, proclamation, injunction or order, for which a fee has been paid, half the fee shall be refunded if the process has not been issued.
10. The fees and charges paid in pursuance of these rules shall, unless otherwise provided by these rules, or unless a Judge or Judges otherwise order, be deemed and treated as part of the costs of the party who has paid them :
- Provided that no fees or charges which have been refunded, or in respect of which a party might, on application have obtained an order for a refund, shall be deemed to be costs within the meaning of this rule.
11. The fee chargeable for serving or executing any process issued by the Court, in the exercise of its Matrimonial, testamentary, and Intestate and Extraordinary Original Civil

Jurisdictions shall be double the fee which would be charged in a District Court, under the rules for the time being in force for the service or execution of such process.

(B) OTHER FEES

12. The following fees shall be charged on every application made in respect of the following matter and such fees shall be paid by means of Court-fee stamps affixed to such application.

	Rs.P.
(1) For every search in the offices record rooms, books, or registers of the Court.	1.00
(2) On each application for a copy of any document or record in the High Court, whether the copy applied for is of a single document or more documents than one :	0.50

Provided that this does not authorise an applicant to ask in a single application for copies of more than one paper, if required in more than one case. There must be a separate application and therefore a separate stamp, for each case.

	Rs.P
(3) On each application for a copy of judgment required by an approved representative of an approved Law Journal for the purpose of reporting.	0.50
(4) For verifying any petition by solemn affirmation or on oath, or for swearing or affirming every affidavit, intended to be used in the High Court.	3.00

NOTE 1- The Advocate-General, the Superintendent and remembrancer of Legal Affairs and the Law Reporter to Government are exempted from payment of the searching fees referred to above.

NOTE 2- Where the fee for swearing or affirming an affidavit has been levied, no fee shall be levied for filing the same, provided that this exemption shall not apply to the fee payable in original suits for filing documents annexed to affidavits.

(5) For inspection of Lower Court records received in connection with appeals and cases and disposed of High Court records -	
(i) If the application is by a party to the suit	1.00
(ii) If the application is not by a party to the suit	5.00
(iii) If the application is for immediate inspection by a party to the suit.	5.00

NOTE - No fee shall be charged for inspection of Criminal record –

(6) For information -	Rs. P.
(i) If the suit is pending	0.50
(ii) If the case has been disposed of	1.00

## ( C ) COSTS

13. Subject to the discretion of the High Court under special circumstances of each case, the following scale of costs shall, ordinarily, be allowed to the successful parties to appeal in High Court.

## (1) Appeals from Original Decrees

		Costs
Amount of value of the claims not exceeding Rs.1,000	Drawing grounds of Appeal ...	Rs.25
	Hearing fee ...	Five per cent on the valuation subject to a minimum of Rs.25
Exceeding Rs.1,000 and not Exceeding Rs.2,000.	Drawing grounds of Appeal ...	Rs.30
	Hearing fee ...	Five per cent on the Valuation.
Exceeding Rs.2,000 and not exceeding Rs.5,000.	Drawing grounds of Appeal ...	Rs. 40
	Hearing fee. ...	Five per cent on the valuation.
Exceeding Rs.5,000 and not Exceeding Rs.10,000.	Drawing grounds of Appeal ...	Rs. 50
	Hearing fee. ...	Rs.400
Exceeding Rs.10,000 and not Exceeding Rs.20,000.	Drawing grounds of Appeal ...	Rs. 75
	Hearing fee. ...	Rs. 600
Exceeding Rs.20,000 and not Exceeding Rs.50,000.	Drawing grounds of Appeal ...	Rs. 100
	Hearing fee. ...	Rs. 850
Exceeding Rs.50,000	Drawing grounds of Appeal ...	Rs. 150
	Hearing fee ..	Plus ½ per cent on The Excess over Rs.50,000 subject to a maximum of Rs.5,000 and subject to a minimum of Rs.3,000:

Provided that in Partition suit, for the purpose of assessment of hearing fee the valuation is to be considered on the claim of the appellants and not on the jurisdictional value of the whole suit out of which the appeal arises.

(2) Second Appeals.

Not exceeding Rs.1,000	...	Drawing grounds of Appeal	...	Rs. 50
		Hearing fee	...	Rs. 50
Exceeding Rs.1000 and not exceeding Rs.5000	...	Drawing grounds of Appeal.	...	Rs. 75
		Hearing fee	...	Rs.50 plus 2 ½ percent of the amount of valuation in excess of Rs.1000.

(3) Appeals from orders.

Drawing grounds of Appeal	...	Rs.25
Hearing fee	...	Rs.32 (minimum)
		subject to maximum of Rs.100 :

Provided that in appeals arising under the Arbitration Act, Hindu Religious Endowments Act and Orissa Act XVIII of 1948 where the valuation of the appeal does not exceed – Rs. 5,000

...	Minimum Rs. 50	Maximum Rs.150
Where the valuation exceeds Rs.5,000	...	Minimum Rs. 100
		Maximum Rs. 500

If the Court does not expressly fix the hearing fee in the Judgment, the minimum indicated above shall be assessed.

(4) Revision

In Revisions against order passed in a suit or proceeding value –

Not exceeding Rs.1000	...	Rs. 50
Exceeding Rs.1,000 and not exceeding Rs.5,000.	...	Rs. 75
Exceeding Rs.5,000 and not exceeding Rs.10,000.	...	Rs. 100
Exceeding Rs.10,000	...	Rs. 150

(5) Review

Minimum	...	Rs. 25
Maximum	...	Rs.100

If the Court does not expressly fix the hearing fee in the Judgment, the minimum fee indicated above shall be assessed.

Appeal under Article 4 of the Orissa High Court Order, 1948, read with clause 10 of the Letters Patent constituting the High Court of Judicature at Patna.

The same as allowed in the previous hearing.

#### (6) Application including Matrimonial References

(Where notice is given and opposite-party appears) To be fixed by judge or Judges who hear the application subject to a minimum of Rs.25.

14. In all decrees and orders a sum calculated at the rate of 5 per centum of the Advocate's fee taxed, and subject to a minimum of Rs. 1, shall be taxed as costs on account of the fee of the Advocate's Clerk or Clerks.

#### 1. General Rules

15. When there are several parties to an appeal, review of applications, only one set of cost shall generally be awarded unless the Court, upon the application on the parties, shall otherwise order.

16. In analogous second appeals, disposed of with costs, the hearing fee shall be assessed on the valuation of each appeal.

17. In analogous Civil Revisions disposed of with an order for costs :-

(a) When the hearing fee is fixed in the judgment, that hearing fee shall be taken to be the fee for the entire batch and shall be divided equally in each case.

(b) When no hearing fee is fixed in the judgment, hearing fee shall be assessed on the valuation of each case.

18. Unless a cross-appeal is filed, the hearing fee alone will be allowed to the respondent.

19. In cases, where an appeal to the High Court from an Appellate Decree, an order of remand is passed, the Court-fee paid on the memorandum of appeal shall, ordinarily be treated as costs in the appeal. But where an order of remand is made under Order XLI, Rule 23 of the Code of Civil Procedure, on the ground that the Court of First Instance disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the High Court essential to the determination of the rights of the parties and that such defect was not amended on First Appeal, or on the ground that the Lower Appellate Court has disposed of the suit or appeal on a preliminary point without investigating the suit on its merits, and such decision is reversed, the Registrar shall grant

an order of refund of the Court-fees so said under section 13 of the Court-fees Act, to the appellant on his application, provided that such application is made within three months of the date of the order of remand. If such application is made after this period, the applicant shall be instructed to apply to the Court for orders.

20. In case not provided for by these rules and in cases in which the subject-matter of the claim does not admit of a valuation, the Court shall fix a reasonable fee, regard being had to the time occupied in the preparation and hearing of the case and the nature of the questions raised.

21. Notwithstanding the provisions of these rules, if having regard to the circumstances of the case, the Court considers the fee allowable in adequate, or excessive, it may, upon delivery of judgment, fix a higher or a lower fee than that hereinbefore prescribed, or order that no fee be entered in the table of costs of a party.

22. The words 'amount or value of the claim' in these rules mean the value stated in the memorandum of appeal or application except in partition suits where it would mean the value of the relief claimed by the parties in the appeal.

**NOTE – Fractions of a rupee shall be omitted from the value of the claim calculation of fees.**

23. No sum in respect of fees shall be allowed or entered in the table of costs of a party in whose plaint, memorandum of appeal, petition or application the amount or value of the claim has been falsely or fraudulently stated.

24. In any such case the Court may allow such sum as may, in its opinion, be reasonable to be entered in the table of costs of the opponent of the party in whose plaint, memorandum of appeal, petition, or application the amount or value of the claim has been fraudulently or falsely stated.

25. In no case in which the relief is capable of valuation and the value of the claim has not before the case comes on for hearing, been stated in the plaint memorandum of appeal, petition or application, shall any sum in respect of fees to the Advocate of the party, by or on whose behalf such plaint, memorandum of appeal, petition or application, was presented, be entered in such party's table of costs, but in such case the Judge or Judges, before whom such case is or was, may, at any time before the taxation of the costs, fix and allow such sum as may, in his or their opinion, be reasonable as the sum, to be entered in the table of costs of such party's opponent in respect of the fees for his Advocate.

26. In an urgent application, on behalf of a party, made during a vacation, by an Advocate not then already retained in the case, the fee shall be Rs.34.

27. If several defendants or respondents who have separate interests set up separate and distinct defences and succeed thereon, a fee for one Advocate for each of the defendants or respondents who appears by a separate Advocate 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 or respondents.

28. For each fee, allowed under the last preceding rule, the value of the stamp on one Vakalatnama only shall be awarded, as costs.

Note - Rules 13 to 28 of this Chapter have been made applicable to Advocates by Rule 1 of the rules made under section 14 of the Indian Bar Council Act, 1926 (XXXVIII of 1926), published under notification No.65, dated the 9<sup>th</sup> December,1930 in Part III page 379 of the Bihar and Orissa Gazette, dated the 17<sup>th</sup> December, 1930.

29. In original cases heard in the High Court where witnesses are examined and parties have to adduce oral and documentary evidence during the hearing the corresponding rules of the General Rules and Circular. Orders (Civil), Volume I are applicable mutates mundis to the costs of the respective parties.

30. <sup>[1]</sup> The following scale of remuneration with liberty to fix a higher fee in suitable cases shall be allowed to the guardians-ad-litem appointed by the Court :-

i)	First Appeal.	Rs. 110.00
ii)	Suits and cases under the Original Jurisdiction.	Rs. 110.00
iii)	Civil Revisions, Second Appeals and Misc. Judicial Cases.	Rs. 50.00

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[1] Substituted vide C.S. No.51