



कर्मचारी राज्य बीमा निगम  
Employees' State Insurance Corporation

# LEGAL FRAMEWORK DOCUMENT OF EMPLOYEES' STATE INSURANCE CORPORATION





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कर्मचारी राज्य बीमा निगम  
Employees' State Insurance Corporation

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**भूपेन्द्र यादव**  
**BHUPENDER YADAV**



**MESSAGE**

I am delighted to note that Employees State Insurance Corporation is bringing out the first edition of the "Legal Framework Document."

In an ever evolving legal space, this LFD will serve as a valuable resource and a single reference point, offering guidance & insight to all the offices of ESIC. I hope this LFD will lead to effective management of court cases, thereby contributing to the mission of ESIC to provide comprehensive social security to workers.

**(Bhupender Yadav)**

रामेश्वर तेली  
Rameswar Teli  
ৰামেশ্বৰ তেলী



राज्य मंत्री  
श्रम एवं रोजगार और  
पेट्रोलियम एवं प्राकृतिक गैस  
भारत सरकार  
Minister of State for  
Labour & Employment and  
Petroleum & Natural Gas  
Government of India

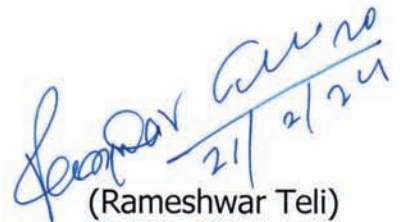


### **MESSAGE**

I am happy to learn that that Employees State Insurance Corporation is bringing out the first edition of the Legal Framework Document. In ESIC's continuous pursuit of organization excellence, this document will play a pivotal role in providing a standardized approach for management of court cases to all its officers.

I hope that this document will enhance the working knowledge of all the field units and the intended objective of bringing out this document will be achieved.

Date: 21.02.2024

  
(Rameswar Teli)



आरती आहुजा, आई०ए०एस०  
भारत सरकार के सचिव  
ARTI AHUJA, I.A.S.  
Secretary to Govt. of India



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### Message

I am delighted to introduce the inaugural edition of the Legal Framework Document of ESIC. This meticulously

crafted document aims to empower officers with essential knowledge and procedures for the proficient management of court cases. This initiative also underscores ESIC's commitment and dedication towards providing comprehensive social security.

I hope this document will be a valuable tool in its collective journey toward legal excellence and a better management of legal issues.



(Arti Ahuja)

Date: 22.02.2024



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(श्रम एवं रोजगार मंत्रालय, भारत सरकार)  
**EMPLOYEES' STATE INSURANCE CORPORATION**  
(Ministry of Labour & Employment, Govt. of India)



### MESSAGE

It gives me great pleasure to introduce the first edition of Legal Framework Document that is poised to be an effective guide for the offices of ESIC all over the country for handling the court cases.

As we continue in our mission to provide comprehensive social security to our insured persons, it is imperative that we manage court cases effectively. This document will serve as a compendium of knowledge, offering a roadmap for navigation through the intricacies of legal proceedings.

I extend my sincere appreciation to all those who contributed to the development of this document.

I am sure that this document will serve as a cornerstone for effective and efficient management of all the court cases and legal issues across our organization.

(DR. RAJENDRA KUMAR)



# Preface

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The tapestry of the Indian workforce thrives on the threads of millions of individuals, each contributing their unique skills and dedication to the nation's economic fabric. Yet, woven into this very fabric is a thread of vulnerability – the ever-present possibility of illness, injury, or disability, disrupting not just livelihoods but the very stability of life itself.

The promulgation of Employees' State Insurance Act, 1948 (ESI Act), by the Parliament was the first major legislation on social security for workers in independent India. The legislation created a comprehensive multi-dimensional social security system, encompassing protections against almost all health-related eventualities that the workers are generally exposed to; such as sickness, maternity, temporary or permanent disablement, occupational disease or death due to employment injury, unemployment, resulting in loss of wages or earning capacity-total or partial.

The ESI Scheme is run and administered through a tripartite body - Employees' State Insurance Corporation (ESIC), comprising of representatives of Employees, Employers and the Government.

With pan-India presence, and lakhs of factories and establishments covered under the ESI Act, 3.42 Crore of Insured Workers are under this social security net. The total beneficiary's population stands over 13.30 Crore under ESI Scheme. In its endeavour to ensure compliance of various provisions of the ESI Act and applicability of Scheme, ESIC is faced with many disputes related to interpretation and implementation of the Act and the Regulations. Many such disputes, especially determination and recovery of dues and levy of damages under Section 45 of ESI Act culminate into litigation in courts.

Chapter VI and VII of the ESI Act, 1948 provide for the adjudication of disputes and claims/dues arising under ESI Scheme. The ESI Act itself provides the larger legal framework for adjudication of disputes and claims, as the Act has the provision of constitution of Employees' Insurance Courts.

ESIC, administering the ESI Scheme, has strength of around 24,000 officers & officials deployed across the country. Cases related to their service matters in the Central Administrative Tribunal and other courts also add to the legal case load of the organization. All put together ESIC has around 31,000 cases sub-judice, as on date, in various courts.

The National Litigation Policy aims at reducing the litigation from the side of the Government by transforming the government organization into an efficient and responsible litigant. Guided by the National Litigation Policy 2010 and the need to put in place a robust system for efficient, effective and timely disposal of court cases, ESIC has formulated this Legal Framework Document (LFD) to bring together a Standard Operating Procedure (SOP) for defending the matters before various courts.

Therefore, this Legal Framework Document (LFD) of ESIC is an effort towards making ESIC an efficient and responsible litigant by focusing on the core issues involved in the litigation and managing the conduct of litigation in a cohesive, coordinated and time-bound manner thereby ensuring that cases with merit are contested, and frivolous cases are not needlessly pursued. The document reflects the resolve of ESI Corporation to bring about a visible and enduring qualitative and quantitative improvement in the way litigation is perceived, managed and conducted in ESIC. It embodies the concern that pendency and delays in our learned courts should be reduced proactively by the Government.

The extensive use of technology tools to further improve the litigation management and monitoring of real time status of on-going cases is a priority area of ESIC in efficient management of court cases. This document therefore, emphasises on robust monitoring and updation through the LIMBS Portal.

The document also attempts to streamline the issues related to empanelment of advocates, their performance evaluation, determination of their fees, etc. The document lays down uniform process to be followed by all concerned individuals in the organization when pursuing litigation and taking the right administrative decisions.

Alternate dispute redressal (ADR) mechanism provides for avenues for amicable settlement of disputes involving civil, criminal, and service matters. The initiative of having standard procedure for entering plea bargains will take the organization towards the objective of reducing court cases and faster settlement of disputes, utilizing ADR.

The Legal Framework Document also goes beyond mere legal exposition. It acknowledges the human element at the heart of the ESI Act, emphasizing the crucial role played by employers, employees, and administrative bodies in its successful implementation. We at ESIC advocate for a collaborative approach, encouraging all stakeholders to understand their rights and responsibilities within the framework of the Act.

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# CHAPTER I

### 1.1 Mandate of the ESI Act, 1948

The Employees' State Insurance Corporation is the statutory body mandated to regulate and execute the Employees' State Insurance Scheme as envisaged under the aegis of the Employees' State Insurance Act of 1948.

The ESI Act, 1948 is a labour welfare legislation designed to provide social security benefits to the employees/workers in the organized sector through a tripartite mechanism of Employees, Employers and the Government.

In regulating and operationalizing the ESI Scheme, it was recognized that there might be disagreements between: -

- (i) The Government and the Employer(s),
- (ii) The Principal and Immediate Employer(s),
- (iii) The Employers and the Employees, and/or
- (iv) The Government and the Employees.

For resolution of the same, “CHAPTER VI - ADJUDICATION OF DISPUTES AND CLAIMS” has been incorporated in the ESI Act, 1948. The Chapter envisages, inter alia, “Constitution of Employees’ Insurance Court” (Section 74) in a local area with the concerned High Court designated as the Court of Appeal.

Apart from the above chapter, different other provisions of the ESI Act also may lead to different types of court cases. Enforcement related provisions under Section 45 A to 45 I and 85 B; and prosecution related provisions under Section 63, 84, 85, 85 A, 86 & 86 A, will fall under this category.

Over the last more than seven decades of the running of the ESI scheme, the disputes and claims are finding redressal through: -

- (i) The Employees' Insurance Courts (EI Courts)\*.

*[\*However, the employers may also go for appeal within ESIC, under Section 45 ‘AA’ against assessments made under Section 45 ‘A’ of the ESI Act, before approaching the E.I. Court].*

- (ii) The District & Sessions Courts / Metropolitan Magistrate / Judicial Magistrate First Class
- (iii) The Consumer Dispute Redressal Commission (District / State / National)





- (iv) The Central Administrative Tribunals (CAT – various Benches)
- (v) The High Courts
- (vi) The Supreme Court

## 1.2 Objectives of the Legal Framework of ESIC

- i. To transform ESIC into an efficient and responsible litigant.
- ii. A system of management and conduct of litigation in a coordinated and time bound manner.
- iii. Avoiding pursuing unnecessary court cases.
- iv. Reduce overall ESIC litigation load in courts.
- v. To encourage and enable redressal of minor issues through alternate dispute redressal forum and institutions within ESIC.
- vi. To provide for a substantive mechanism for all legal/ courts related issues, which would inter alia serve to monitor and control the implementation of the framework, enforce accountability, provide clarifications to implementers and various stakeholders.
- vii. To introduce a comprehensive reporting and data flow system, relating to the court cases of ESIC.

## 1.3 Applicability

The provisions of this framework shall be mandatory on all officers and officials of Branch Offices, ESIC Hospitals, other ESIC Medical establishments, Regional Offices, Zonal Offices and Headquarters' Office of ESIC, who, directly or indirectly, are associated with litigation management in ESIC. It shall serve as consolidated reference point for all matters of competence, its procedure, norm, and interpretation etc., relating to litigation management in ESIC. The framework shall have the force of an administrative regulation.

However, any other specific instructions of Ministry of Law & Justice, Ministry of Labour & Employment or any other competent authority on specific issues, wherever applicable, would continue to serve as additional reference in matters connected with litigation.

## 1.4 Review and Updation

The framework shall be regularly reviewed and updated in view of changing legal scenario. A comprehensive updation shall be done within such period as may be prescribed by the ESI Corporation.

## 1.5 Field Level Committees

Composition of committees: There shall be a committee in each Regional Office. The committee shall be headed by the Regional Director in-charge of the region consisting of 2-3 officers of the Regional Office. The sub-regional offices and the ESIC medical institutions/ hospitals also may have this type of committee based on requirement. The committee may invite any other expert to join the deliberations whenever required. One advocate on the relevant panel of ESIC also may be taken on committee, if required, by the Regional Director. The sub-regional offices and the ESIC hospitals may also have such committees, if required.

## 1.6 Roles and Responsibilities of the Committees

Major roles and responsibilities of the committees shall include the following: -

- i. The committee shall oversee the implementation of all aspects of this framework.
- ii. The committee shall aim to streamline the litigation and grievance redressal system.
- iii. The committee shall identify the major causes of litigation and shall take suitable measures to minimize the same.
- iv. The committee headed by the Regional Director shall have full powers to take decisions in respect of delegated matters of litigation management.
- v. The committee shall have power to take decision of not pursuing a litigation in respect of cases whereby financial implication is too low and in which there is no question of law involved, subject to the ESIC Hqrs. / Govt. of India guidelines.
- vi. In cases of decisions involving core policy issues, recommendations of the committee shall be forwarded to the concerned division of ESIC Hqrs. under intimation to Legal division at Headquarters' Office.
- vii. It shall enforce accountability at all stages of the litigation process and for this purpose introduce a comprehensive reporting and data flow system.
- viii. The decisions of the committee shall be implemented by the concerned officers/officials.
- ix. No administrative action shall lie against the members of the committee for anything which is in good faith done or intended to be done in pursuance of this Legal Framework Document.



## 1.7 Prevention and Control of Avoidable Litigation

Major cause of litigation includes arbitrariness in decision making and lack of proper response to representations made by employers, employees and other related parties. In majority of such cases the courts give directions to pass speaking orders in time bound manner. Before the matter is escalated to the court, the affected party spends a lot of time and effort to redress its grievances through the normal administrative channel. The committees shall endeavour to resolve the issues arising out of such arbitrariness and lack of response to avoid litigation. Any legal notice should be decided expeditiously, not later than 15 days from receipt of notice, in accordance with the relevant rules/instructions and by passing a detailed speaking order by the officer competent to decide such issues.

A sizeable number of cases are similar in nature & facts. The committees should aim to consider and settle the representation, if the prayer is found to be covered under a matter already decided by the competent court. The committees shall endeavour to settle the issue as per post-judicial proceedings formed in identical cases by different court when attained finality to avoid multiplicity of same matters.

## 1.8 Filing of Appeals

Appeal to higher judicial forum is an important legal remedy available to the organisation, wherever court cases are decided adversely against ESI Corporation. This legal remedy action 'Appeal' is to be made in case, when the judgement or order of legal cases has been decided adversely against corporation from subordinate court/ judicial forum/ tribunal etc. Such adverse order of subordinate courts should be challenged to a higher judicial forum/tribunal/court only in the interest of organization in a very prudent manner or when a question of law is present. Appeal can be made by opposite parties also. Appeal at any level should be filed with full application of mind to the order/judgement at hand. The detailed guidelines for making appeal to higher court of law/ judicial forum is provided in **Chapter IV of this document.**

## 1.9 The Limitation and Delays in Filing Appeals

Good number of cases are often lost because appeals are filed well beyond the period of limitation and without any proper explanation for the delay or without a proper application for condonation of delay. The question of limitation and delay must be approached on the premise that every court will be strict about condonation of delay. Every attempt must be made to reduce delays in filling appeals. The committees shall maintain a record of cases which have been



## 1.10 Strengthening Legal Division

The legal branches at different field units will also be strengthened further with the required manpower and other resources.

## 1.11 Handling Important Matters

- 5



accordingly, in a proper and legally sustainable way. Thus, in cases where policy decisions of ESIC, statutory provisions or any Gazette Notification under the Act or any of the Scheme are challenged, the concerned Regional Office should Consult the matter with the concerned division of Hqrs. with copy to Legal Division, Headquarters Office for instructions. No submission on merits of the matter should be made in such cases without consultation or approval of draft submission to headquarters.

- ii. Cases where Union of India, Members of Corporation, Director General or other superior authorities are respondents but neither any of their orders have been challenged nor any relief is sought from them (i.e., they are proforma parties), shall be defended by jurisdictional Regional Offices. Any guidance or clarification on policy issues in such cases may be sought from concerned division of Headquarters Office directly.
- iii. All cases filed against/by ESIC should be monitored/reviewed from time to time at the level of All Divisional Heads/ Zonal ICs/ Regional Directors/ SRO in-charges, as per Circular No. T-11012/3/2022-Legal dated 15.04.2023.
- iv. Cases where Zonal IC/ Regional Director or any other officer thereof are arrayed as parties shall be defended by concerned Regional office.
- v. Cases where any policy matter or significant question of law is involved, shall be conducted by the concerned office in consultation with concerned division of Hqrs. Office with a copy to Legal Division, Headquarters Office.
- vi. All matters before Supreme Court, irrespective of whether Union of India, Member of Corporation or Director General are necessary parties or otherwise, shall be conducted by Legal Division of Headquarters office.

## 1.12 Miscellaneous

- i. Cases must be handled meticulously at original stage as there are best chance of succeeding in the first stage only.
- ii. Timely filing of counter replies is a crucial step towards disposal of legal cases. It must be ensured that counters are filed within the time stipulated by the rules/courts and no extension of time should be sought. Further, adjournments shall be strongly opposed in case such request is made from the opposite party. It is mostly a delaying tactics of the petitioner to prolong the case especially after obtaining the order of stay, which shall not be allowed. All panel advocates shall be instructed accordingly. Further Zonal IC and Regional Directors must scrutinize such files, where delayed counters are filed and fix responsibility on the erring officials.



- iii. Use of Preamble in counter Affidavits: An essential ingredient of a well drafted counter is the preamble containing the spirit of the act and the perspective in which the cases originate. As such, all counter affidavits should begin with the preamble. The preamble must be followed by the brief history of the case vis-a-vis the provisions of the Act and Schemes, rules or instructions raised in the petition, court decision etc. and the questions of law involved so that the Hon'ble courts may appreciate the subject matter in view of the mandate of the Act.

### 1.13 Proper Briefing of Advocates

It is observed that there is lack of communication between the advocates and the officers. Often responsibility of briefing at ROs/SROs is shifted to the junior functionaries leading to casual and negligent handling of cases by the advocates. The counsel engaged in the cases shall always be comprehensively briefed by a senior official well acquainted with the case. At the same time, the advocates should also be provided with all other assistance to defend the cases. The favorable case laws etc. should also be informed and discussed so that the cases are argued effectively. There shall be proper noting in the file after briefing the counsel. The concerned branch officer related to the court cases must co-ordinate well, and shall be responsible for effective briefing.

### 1.14 Proper Monitoring of the Cases

There are substantial number of cases, which are not coming on board for hearing and/or stay have been granted. The continued pendency of these cases is affecting the ESIC's goal of extension of social security benefits to the members of working class, in a timely and appropriate manner. All such cases should be reviewed and stay vacation application and/or early hearing petitions should be invariably filed for disposal on priority.

It has been observed that several petitions are dismissed simply because they were filed after lapse of the statutory time limit prescribed under the Limitation Act, 1963 or under the relevant High Court Rules or the Supreme Court Rules, 2013. It must be ensured that time limit is strictly adhered to as every instance of loss in litigation involves long term adverse ramifications.

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## CHAPTER II

### STANDARD OPERATING PROCEDURES FOR VARIOUS COURTS

#### 2.1 SOP for Filing Special Leave Petition (SLP) in Supreme Court

- i. All matters before Supreme Court, irrespective of whether Union of India, Members of Corporation or Director General are necessary parties or otherwise, shall be conducted by Legal Division, Headquarters Office. The proposal for filing Special Leave Petition (SLP) before Hon'ble Supreme Court shall be sent by the Concerned Regional Director or Zonal IC after scrutiny along with his/her specific recommendation.
- ii. Proposals for filing of SLPs shall invariably contain facts of the case, impugned order, complete set of pleadings, right from court of first instance, question of law involved, legal opinion from a panel advocate other than the one, who argued the case and specific recommendation of the concerned Regional Director/ Zonal IC on the specific issues which needs to be litigated before the Apex Court.
- iii. While deciding to file an appeal, the concerned Regional Office/ Division should ensure that no similar case with similar facts and situation has already been decided by the Hon'ble Supreme Court.
- iv. The suitability of filing appeal before the Supreme Court shall be properly examined. SLPs shall only be recommended where a larger question of law is involved and decision has ramifications on policy matters. Mere financial implication cannot be ground of appeal. The proposal should be submitted to Headquarters Office by the concerned Regional Director / Zonal IC as per the following time limit (circular no. T-11/12/Rev & Bft/2022-Legal dated 24.11.2023 may be referred for timeline for filing of SLP):

1.	Examination of the proposal and decision for filing SLPs by Regional Office	10 Days
2.	Drafting of SLPs and forwarding the same to the concerned field office or concerned division at HO, by advocate	15 Days
3.	Approval of draft SLP by the concerned field office or concerned division at HO, as the case may be	05 days
4.	Preparing paper book and filing	05 Days

- v. If there is any delay in above timeline the date wise action sheet for delay shall be explained. For filing statutory appeals, reviews etc the above timelines shall stand modified to the extent of the period of limitation.



- vi. While sending the proposal for filing SLP, the RDs or Zonal ICs shall send inputs / reasons for the failure of their plea to the panel counsel.
- vii. Before sending a proposal for filing SLP in Supreme Court, the concerned Regional Director shall exhaust all remedies available before the Division Bench against the order of the Single Bench of High Court.
- viii. Proposals for filing SLP before Supreme Court, shall be examined, in depth, to assess as to whether an SLP or an appeal lies. If a case is made out for filing SLP or appeal, the same shall be sent by RDs of the region or Zonal ICs with their comments and recommendation along with the opinion of the conducting lawyer.
- ix. Proposals for filing SLP or appeal shall not be sent by field offices in routine or casual manner without examining the fact that a substantial question of law is involved, or gross injustice has been done while passing the order by Hon'ble High Court.
- x. The concerned Regional Directors before sending the proposal for filing SLP or appeal shall examine thoroughly at their level to see the suitability of filing the same and if cases are made out, they shall forward the proposals with all relevant documents and along with their specific recommendations.
- xi. The concerned Regional Directors shall also maintain a file for each SLP relating to the offices under their jurisdiction to ensure that appropriate action is taken in the matter.
- xii. If there is a delay of more than 90 days, a specific paragraph on reasons for delay must be mentioned with proper justification so that the delay is condoned by the Hon'ble Court and the matter is admitted. After forwarding the case to Hqrs., the field office should also keep a track of the cases so that any undue delay can be brought to the notice of division heads and timely action can be ensured.

2.1.1 The Proposal for Filing SLP Before Supreme Court Shall Contain the Following

- i. Brief history / facts of the case and analysis along with all relevant documents (including the order/issue under challenge).
- ii. Legal opinion of the advocate specifically mentioning the substantial question of law to be decided by the Hon'ble Supreme Court.
- iii. Specific comments of Regional Director of Regional Office indicating therein the substantial point of law involved vis- a- vis provisions of the ESI Act / other



- Acts & the ESI Scheme and total financial implication. Recommendation of RD or Zonal IC with his/her justification and recommendations.
- iv. Original certified copy of the order in Writ Petition filed before the Hon'ble High Court (Single Bench).
  - v. Copy of the counter affidavits to such Writ Petition (both petitioner and respondents).
  - vi. Original certified copy of the order of the Division Bench, Hon'ble High Court on Writ Appeal/LPA.
  - vii. Copy of the certified counter affidavits to Writ Appeal/LPA/Revision Petition (both petitioner and respondents).
  - viii. English translated copies of all the documents if the same are originally in Hindi or Regional languages.
  - ix. Date of expiry of the period of limitation. In case of delay, reasons for delay and date wise day to day events of explanation for delay.
  - x. Draft SLP/Appeal with all legible copies of annexures.
  - xi. The proposal received from Regional Director shall be examined in consultation with panel advocates of Supreme Court and the concerned division of Headquarters Office. The concerned division shall give inputs/comments in the matter along with recommendation on whether the approval of UOI is required or not. Based on the facts of the matter and inputs/comments of the concerned division, the matter shall be placed before Director General for in principle approval of filing SLP before Supreme Court. If UOI is involved in the matter then the matter will be referred to UOI for filing appeal or further guidance in the matter.
  - xii. The matter shall be assigned to panel advocate of Supreme Court and based on the inputs of RO/ ZO and the concerned division, a SLP shall be drafted by panel advocate. The SLP, so drafted, shall be vetted by Regional Director and thereafter, it will be sent to concerned division with advice to vet and take approval of Divisional Head/ DG before sending to legal division for filing. If UOI is involved in the matter, then the matter will be referred to Ministry of Labour and Employment for approval of draft appeal and getting it filed through Ministry of Law and Justice or as directed by ministry.





### 2.1.2 Filing Counter Replies

- i. While preparing the Para-Wise Comments (PWCs) in concerned matter, the circular No. T-11/12/285/2023-legal dated 09.05.2023, issued by Headquarters may be referred/ followed. The counter Affidavit should be submitted mandatorily before the first hearing, however in case, if it is not possible for timely preparation of Para-wise Comments, preparation of counter affidavits, late receipt of the case papers etc. the branch concerned must intimate the legal branch, in writing, with the approval of the competent authority i.e. the Divisional Head.
- ii. Further, in cases where UOI, ESIC, Members of Corporation or its Officers are respondents in SLPs filed by the aggrieved establishment / employer and the matter are related to challenge to constitutional or legal validity of statutory provisions of the Act/ Schemes, Gazette Notifications or policy decisions of ESIC or matters involving substantial question of law or otherwise, then the matter shall be immediately informed to concerned division of Headquarters Office with copy to Legal Division, Hqrs by RO/ ZO. Panel advocate shall be engaged by Headquarters Office to defend the interest of ESIC. A draft counter affidavit to SLP duly prepared and vetted by Regional Director shall be sent to Headquarters Office along with brief history and all relevant documents. The draft counter shall be sent to concerned division for vetting and getting the approval of Divisional Head/ DG. The vetted reply along with specific recommendation on whether the approval of UOI is required or not should be sent to Legal Division for further necessary action of filing etc. If UOI is a necessary party, the matter will be referred by the concerned division to UOI for approval of draft appeal and getting it filed through Ministry of Law and Justice.

## 2.2 Sop for Handling Cases Before High Court

2.2.1 Cases where Union of India, Members of Corporation, DG and other superior authorities are respondents but neither any of their orders have been challenged nor is there any policy issue/ policy decision/ substantial question of law, or any relief is sought from them (i.e., they are proper/ proforma parties) shall be defended by jurisdictional Regional and Zonal Offices. In such cases following Standard Operating Procedure (SOP) may be adopted:-

- i. As soon as notice/ Writ Petition (WP) is received, panel advocate should be engaged to defend the interest of ESIC, and information should be



- entered/ uploaded in LIMBS portal. Any guidance or clarification on policy issues in such cases may be sought from concerned division of Headquarters Office directly {timeline allowed just like (2.1.iv)}.
- ii. In these types of cases, the concerned branch and Legal branch of Regional Office/ Zonal Office, to whom the case pertains to, shall bear the overall responsibility of preparation of counter affidavit in consultation of panel advocate, its timely filing and adequate follow up till its conclusion. In case of Regional Offices, the counter reply shall be vetted and filed with the approval of Regional Director of Regional Office. For instance, in case of Regional Office, if the counter reply of the case relates to compliance, the same shall be prepared by the concerned Revenue Branch Officer and filed after approval and vetting of Regional Director of Regional Office. Similarly, if the counter reply of the case relates to finance and account or pension, the same shall be prepared by concerned Finance Branch Officer and filed after approval and vetting of Regional Director of Regional Office. In case of the matter is related to Branch Offices, the counter reply shall be prepared by concerned Benefit Branch Officer of the Regional Office and the same shall be vetted and filed with the approval of Regional Director of concerned Regional Office. If the matter involves two or more Regional Offices then the replies will be filed by Regional Director of concerned Regional Office. This responsibility shall not be further delegated down below.
  - iii. Legal Division, Headquarters Office shall coordinate in the matters pertaining to Headquarters Office. If the case exclusively belongs to Headquarters' Office, then Legal Division of Headquarters Office shall engage panel advocate to defend the matter in consultation of concerned Zonal/ Regional Office. If required, the para-wise comments to WP/ LPA etc. shall be provided by the concerned subject division timely. Based on the inputs/ para-wise comments, the counter reply shall be got prepared through panel advocate. If the panel advocate requires briefing/ conference/ documents in the matter then the concerned subject matter division of Headquarters Office will do the needful. This means concerned subject matter division of Headquarters Office, will nominate an officer well versed in the case related to the subject who will be exclusively coordinating with and briefing the counsel keeping Legal Branch in loop. The draft counter shall be vetted by the Director/



Add. Commissioner of the concerned branch of subject matter and sent back to legal division of Headquarters Office. The concerned Asstt. Director/ Dy. Director of the concerned subject matter division/ branch will be directly responsible for such matter.

- iv. In the matters, if UOI/ Secretary (L&E) is a proper/ proforma party then UOI/ Secretary (L&E) should not go un-represented. Brief history, para-wise comments along with relevant documents in the matter should be provided to the central government counsel appearing on behalf of UOI/ Secretary (L&E) and he should be appropriately briefed by an officer well conversant with the subject matter with request that Interlocutory Application (I.A.) or Miscellaneous Application (M.A.) / application may be filed before the respective court as per requirement of the case in accordance with the law for deletion of name of the UOI/ Secretary from respondents' list.
- v. Further, Hon'ble Court may be appropriately apprised by panel advocate of ESIC that the case squarely pertains to ESIC, and name of UOI/ Secretary (L&E) may be deleted from the arrayed list of respondents. The Hon'ble Court may also be apprised that UOI/ Secretary(L&E) is only a proforma party in the matter.
- vi. In matters, where UOI/ Secretary (L&E) must file counter then brief history, para-wise comments/ reply filed by ESIC along with relevant documents in the matter should be provided to the central government counsel. He/she should be appropriately briefed by an officer well conversant with the subject matter with request to prepare a reply on behalf of UOI/ Secretary (L&E) and send it for vetting to MoL&E directly with a copy to concerned RO/ ZO. The reply so prepared shall be vetted by RD/ Zonal IC before sending it to Headquarters Office specifying clearly, as to why such reply is required to be filed by UOI. The concerned subject matter division, Headquarters Office shall get it vetted and inform Legal Division. The subject matter division shall place the draft counter before DG for approval. The approved draft shall be sent to MoL&E, with a request to either approve the Counter reply or adopt the reply of ESIC.

2.2.2 Cases where the Union of India or other superior authorities are necessary parties (i.e. challenge to constitutional or legal validity of statutory provisions of the Act/Schemes, Gazette Notifications or policy decisions of ESIC in





various constitutional courts or their orders have been challenged or relief is sought from them or substantial question of law is involved), shall be directly conducted by the concerned subject matter division, Headquarters Office, with assistance of jurisdictional Regional and Zonal Offices and in consultation with Legal Division of Headquarters Office. In such cases following Standard Operating Procedure (SOP) may be adopted: -

- i. As soon as notice/ WP is received, panel advocate should be engaged at once to defend the interest of ESIC, and information should be entered/ uploaded in LIMBS portal. Simultaneously Legal division, Headquarters Office to be informed about the matter.
- ii. Draft Counter affidavit on behalf of ESIC along with all relevant documents (copy of action/order under challenge, WP, brief history, interim orders, action taken etc.) duly vetted by Regional Director of Regional Office shall be sent to Legal Division of Headquarters' Office. The procedure for preparation of counter affidavit has been detailed in the preceding paragraph.
- iii. Legal Division of the Headquarters Office shall get the same vetted by the subject matter division of Headquarters Office. The subject matter division shall place the counter before Divisional Head/ DG for approval of counter affidavit. If the services of panel advocates of Headquarters Office are required then the same may be taken. The approved draft shall be sent to concerned RO/ ZO for filing and defending of the case.
- iv. In matters, where UOI/ Secretary (L&E) has to file counter then brief history, para-wise comments/ reply filed by ESIC along with relevant documents in the matter should be provided to the central government counsel. He/ She should be appropriately briefed by an officer well conversant with the subject matter with request to prepare a reply on behalf of UOI/Secretary and send it for vetting to MoL&E directly with a copy to concerned RO/ZO. The reply so prepared shall be vetted by RD or Zonal IC before sending it to Headquarters Office specifying clearly, as to why such reply is required to be filed by UOI. Legal division, Headquarters Office shall get it vetted by the subject matter division of Headquarters Office. The subject matter division shall place the draft counter before DG for approval for furnishing to MoL&E. The approved draft/counter shall be sent to MoL&E with request either to approve the Counter reply or adopt the reply of ESIC. In all matters and



specially of high importance, the reply of UOI and ESIC should be on the same page (as far as possible) and reply may be filed simultaneously.

## 2.3 SOP for Handling Cases Before NCDRC and NCLAT

All matters before NCDRC shall be conducted by Legal Division, Headquarters Office and all matters before NCLAT shall be conducted by Regional Office, Delhi.

### 2.3.1 Filing Appeals

- i. The suitability of filing appeal before the NCDRC and NCLAT shall be properly examined and sent by the Regional Director / Zonal IC, well within the limitation period. Such references will be sent to Headquarters Office for NCDRC and to Regional Office, Delhi for NCLAT.
- ii. While sending the proposal for filing appeal, the Regional Director shall explain the reasons for the failure of their panel counsel. If a case is made out for filing appeal, legal opinion shall be obtained from an advocate, other than the one who could not properly defend the case at SCDRC.
- iii. Before sending a proposal for filing appeal in NCDRC and NCLAT, the Regional Director shall exhaust the remedy available. Proposals for filing appeal before NCDRC and NCLAT shall be examined in depth to assess as to whether an appeal lies. If a case is made out for filing appeal, the same shall be sent by Regional Director of the region or Zonal IC with their comments and recommendation.
- iv. Proposals for filing appeal shall not be sent by field offices in routine or casual manner without examining the fact that a substantial question of law is involved, or gross injustice has been done while passing the order by SCDRC. The Regional Director / Zonal IC before sending the proposal for filing appeal shall examine thoroughly at their level to see the suitability of filing the same and if cases are made out they shall forward the proposals with all relevant documents and along with their specific recommendations.
- v. The Regional Director / Zonal IC shall also maintain a file for each appeal relating to the offices under their jurisdiction to ensure that all appropriate action is taken in the matter.
- vi. The proposals for filing appeal before SCDRC / NCDRC/ NCLAT shall contain the following:



- a. Brief history/ facts of the case and analysis along with all relevant documents (including the order/issue under challenge).
- b. Legal opinion of the advocate specifically mentioning the substantial question of law to be decided by the SCDRC/ NCDRC/ NCLAT.
- c. Specific comments of Regional Director of Regional Office indicating therein the substantial point of law involved vis-a-vis provisions of the act, the schemes and total financial implication.
- d. Recommendation of the Regional Director / Zonal IC with justification and recommendations.
- e. Certified Copy of the order of DCDRC/ SCDRC/ NCLT/ other related judicial forum.
- f. Copy of the counters to such petition/ application (both petitioner and respondents) before DCDRC / NCLT/ other related judicial forum.
- g. Copy of the certified counters to petitions/application before SCDRC/ NCLT Petition (both petitioner and respondents).
- h. English translated copies of all the documents if the same are originally in hindi/ regional languages
- i. Date of expiry of the period of limitation. In case of delay, reasons for delay and date wise day-to-day events of explanation for delay.
- j. Draft appeal, both in hard copy and soft copy, with all legible copies of Annexures.
- k. The proposal received from the Regional Director/ Zonal IC shall be examined in consultation with panel advocates and the subject matter division of Headquarters Office. The subject matter division shall give inputs/comments in the matter along with recommendation on whether the approval of UOI is required or not. Based on the facts of the matter and inputs/comments of the subject matter division, the matter shall be placed before DG/IC (Hqrs.) by Legal Division for in-principle approval of filing appeal before NCDRC. If UOI is involved in the matter then the matter will be referred to Ministry of Labour and Employment for filing appeal or further direction in the matter.
- l. The matter shall be assigned to panel advocate in coordination with Regional Office Delhi and based on the inputs of RO/ZO and the



subject matter division, an appeal shall be drafted by panel advocate. The appeal so drafted shall be vetted by Regional Office Delhi. If UOI is involved in the matter then the matter will be referred to Ministry of Labour and Employment for approval of draft appeal and getting it filed through Ministry of Law and Justice or as directed by the ministry.

### 2.3.2 Filing Counters in NCDRC/ NCLAT

- i. In cases relating to NCDRC, where UOI, ESIC, or its Officers are respondents in appeals filed by the aggrieved establishment/employer and the matter are related to challenge to constitutional or legal validity of statutory provisions of the Act/Schemes, Gazette Notifications or policy decisions of ESIC or matters involving substantial question of law or otherwise, then the matter shall be immediately informed to Legal Division of Headquarters Office by RO/ZO. Panel advocate shall be engaged by Headquarters Office to defend the interest of ESIC. A draft counter affidavit to appeal duly prepared and vetted by RD/ Zonal IC shall be sent to Headquarters Office along with brief history and all relevant documents. The draft counter shall be sent to subject matter division for vetting and getting the approval of DG/ Divisional Heads, HQ. The vetted reply along with specific recommendation on whether the approval of UOI is required or not should be sent to Legal Division for further necessary action of filing etc. If UOI is involved in the matter then the matter will be referred by the concerned division to Ministry of Labour and Employment for approval of draft appeal and getting it filed through Ministry of Law and Justice. For cases relating to NCLAT, the exercise is to be done by Regional Office, Delhi.
- ii. Period of limitation shall always be kept in mind. Since appeals are to be filed within the limitation period of passing of impugned order by SCDRC/NCLT, the proposal should be submitted to Headquarters Office/ Regional Office, Delhi, well within the time so that second legal opinion (if required), finalization of draft SLP, vetting and engagement of suitable panel advocate can be appropriately and timely attended.

## 2.4 SOP for Handling Cases with E.I. Courts, Cmm, District Court, Consumer Redressal Forum and Other Lower Courts

The cases at the E.I./District Court level are the first step of judicial intervention and become basis for further judicial determination. Therefore, these cases should be given appropriate attention and should be dealt with necessary seriousness.

The type of cases dealt at district level/ first stage level, are:

- i. E.I. Courts
- ii. Prosecution Cases
- iii. Civil Suits
- iv. DCDRC cases
- v. CAT Cases

#### 2.4.1 E. I. Court Cases: -

Section 75 (1), (2), and (2A) lays down the matters to be decided by the E.I. Courts. Following are the steps in which such cases will be dealt: -

- I. All Employees Insurance Court cases shall be attended sincerely and carefully. The cases shall be appropriately defended to avoid adverse orders. Wherever it is considered necessary to engage a counsel to plead the case, the file will be put up to the Regional Director/ Joint Director In-charge for naming an advocate out of the approved panel.
- II. Where the opposite party (respondent) is the Corporation, on receipt of copy of the petition, or stay order if any, and the summons through the SSO (Legal) or otherwise, the legal branch at regional/sub-regional office may open a separate file for the said EI case, and call for the information from the concerned revenue/ benefit branch.
- III. Concerned branch will ensure that the information required to defend the case are sent at the earliest and regular follow up is made in the matter.
- IV. On receipt of related information, legal branch will forward it to advocate engaged for the case for preparation of the written reply.
- V. Advocate will prepare & forward written reply/ counter to Legal Branch for vetting. It shall be ensured that a proper written reply/ counter is filed within stipulated time, incorporating the provisions of the ESI Act and Scheme followed by narration of facts of the case. In case the written statement is prepared by the Corporation, a reduction of 10% in the fee to be paid to the advocate is to be made.
- VI. The counters in all EI cases shall be vetted by Regional Director / Sub-Regional Office Incharge and filed by authorized official.
- VII. Zonal ICs and Regional Directors must review the status of Employees Insurance Court cases, at least once in a month.





#### VIII. Role of SSO:

- The Social Security Officer (Legal) of the Corporation, who is attending the EI Court daily for watching the proceedings and reporting the progress to the regional/ sub regional office, may ensure that any dispute between a principal employer and the Corporation in respect of any contribution or any other dues shall not be raised by the principal employer in the Employees' Insurance Court unless he has deposited with the court fifty per cent of the amount due from him as claimed by the Corporation, according to Section 75(2B) of the Act, provided that the court may, for reasons to be recorded in writing, waive or reduce the amount to be deposited under this sub-section.
  - SSO (L) will inform Legal Branch, in case the employer fails to remit the amount of deposit ordered by the court within the time limit, then the interim stay, if any, granted by the court does not operate any longer, and the Corporation can proceed with the recovery of the disputed amount after informing the court.
  - After the judgment is pronounced, SSO (L) would intimate Legal Branch in case of adverse judgement; and an application for supply of the judgment copy is to be made in writing in the court. The conducting lawyer may also be requested to give opinion for filing an appeal or otherwise in the matter. The time limit for appeal, if any, starts from the date of judgment.
- IX. Regional Director or Zonal IC shall take decision to file appeal before the High Court within 60 days from the date of order to ensure filing of appeal within limitation period.
- X. Timelines for cases:
- i. Updation in LIMBS portal by Branch Officer (Legal) upon receipt of notice within 03 days.
  - ii. Legal Branch to nominate counsel within 02 days of receipt of court notice/ summons and call documents from concerned Branch.
  - iii. Concerned branch to provide para-wise comments along with case documents within 01 week to Legal Branch.
  - iv. Legal Branch to forward documents to counsel for preparation of written statement within 03 days.
  - v. Vetting and approval of written statement by Regional Director within 01 week.

- vi. Attendance in the court on the day of hearing in person or by the legal practitioner is absolutely necessary. Regional Office/ SRO must ensure that the SSO and the counsel engaged in the case appear on the day of hearing and are present for case in proper manner.
- vii. On receipt of the judgment, if it is against the Corporation, the Regional/ Sub-regional Office may study the whole judgment in detail, note down the points, worth consideration for an appeal, and invariably seek the opinion of the standing counsel for preferring an appeal. The Regional Director will take a final decision on appeal. If considered necessary guidance may be sought from the Hqrs. The time limit of 60 days from the date of judgment should be noted and appeal should be filed within that time. Under exceptional circumstances, if there is any delay, a petition for condonation of delay may also be filed along with the appeal. However, it will be the responsibility of the Regional Director to file the appeal, if required, within allowed time.

#### 2.4.2 Prosecution cases: -

- I. Prosecution cases are filed in Lower Courts for non-payment of contribution, non-submission of returns and other such offences. Soon after detection of defaults, the Regional Director or Sub-Regional office in-charge, under whose jurisdiction the defaulting establishments are carrying out their business, shall ensure that the Social Security Officer submits proposal for sanction of prosecution promptly. However, prosecution should not be filed in routine manner and this power may be exercised only in chronic defaulter's cases.
- II. Once the prosecution is sanctioned, the complaint should be filed by the Social Security Officer in the courts within 07 days along with the sanction of Regional Director or the Sub-Regional office in-charge and a proper record of hearings, adjournments and consultations, if any, with the public prosecutor or lawyer should be maintained for each case or a group of cases to be disposed of jointly. The Social Security Officer should intimate the progress of the case/ cases to the Regional Director / Sub-Regional office in-charge after each hearing. Taking notes of hearing, adjournment in the respective files only is not enough. Delay in submission of prosecution proposals and in filing prosecution cases in lower courts shall be avoided as delay encourages default. The prosecution cases filed shall be properly diarized with case number and the status of the cases be monitored regularly. The panel advocates should be instructed to inform the development of all the matters assigned to them including interim orders within 24 hours of pronouncement of such order followed by certified copies at the earliest.

III. Provisions of Section 84, 85, 85-A, 86 and 86-A of the ESI Act relate to prosecution. The prosecution is initiated under Section 86 of the Act against the principal employer by filing a complaint in writing in a criminal court not inferior to that of Metropolitan Magistrate or Judicial Magistrate of 1st class, only after obtaining sanction of the Regional Director or Director or Jt. Director or such other officer so authorized by the Director General. Though there is no limitation prescribed in this section for filing of criminal complaint, yet the provisions of Chapter XXXVI of Criminal Procedure Code (Cr.P.C.), extract given below, will apply to the filing of complaint in the category of cases falling under Section 84 and 85 of the ESI Act.

“468(2) of Cr.P.C. — The period of limitation shall be (a) six months if the offence is punishable with fine only (b) one year if the offence is punishable with imprisonment for a term not exceeding one year (c) three years if the offence is punishable with imprisonment exceeding one year but not exceeding three years.”

IV. Prosecution may also be initiated against the person (insured person) for the offence of false declaration, i.e. for violation of the provisions of Section 63 of the Act, impersonation for obtaining cash benefit or medical benefit, tampering with medical certificates.

V. The prosecution is initiated in the cases falling under any one or more of the following categories against a person (principal employer) who:

- (i) Deducts or attempts to deduct from the wages of the employee any part of the employer's contribution.
- (ii) Contravenes the provisions of Section 72-73 of the Act.
- (iii) Fails or refuses to submit the return as required by Regulations or makes a false return.
- (iv) Obstructs any inspector/ social security officer or other officer / official of the Corporation in the discharge of his duty.
- (v) Is guilty of any contravention or non-compliance of any of the requirement of the act, rules or regulations in respect of which no special penalty is provided.

VI. It may also be noted that if the employer has deducted employees' contribution and failed to deposit the same with the Corporation, the complaint should also mention violation of Section 406/409 of Indian Penal



Code (IPC). If any employer has committed a similar offence earlier for which he was punished by the Court, the present complaint has been filed with specific mention of his earlier punishment. If this is found not done, it should be brought to the notice of the Regional Director/ Sub-Regional Office In-charge.

VII. A register of prosecutions launched should be maintained properly and the entries upto the stage of final disposal of the case by the court should be there. It should also be seen that Branch Officer (Legal) reviews this register periodically.

#### 2.4.3 Civil Suits: -

- i. The competent authority to sanction/ approve filing of civil suits shall be the concerned Regional Director of Regional Office.
- ii. The proposal for filing a civil suit shall be submitted to the Regional Director by the concerned Branch Officer giving full details of the cause of action with respect to which the civil suite is being filed.
- iii. Since strict limitations apply to filing civil suits, it shall be the responsibility of the concerned Branch Officer to submit proposal for filing of civil suit within one month of arising of the cause of action.
- iv. The upper time limit for sanction of filing a civil suit shall however be one month. In accordance with the provisions contained in the Civil Procedure Code, 1908, court fee is paid ad-valorem at the stage of filing of civil suit. The sanction of such fees shall be made by the authority competent to sanction the relevant expenditure as provided in the Schedule of Administrative and Financial Powers applicable from time to time.
- v. Timelines for civil suits

1.	Submission of proposal by the Branch Officer (Legal)	1 month
2.	Sanction by Regional Director	1 week
3.	Sanction by Regional Director in case any clarification/ legal advice is sought	1 month
4.	Filing of Civil Suit	7 days

#### 2.4.4 District Consumer Disputes Redressal Commission (DCDRC) Cases: -

- i. The cases arising from Consumer Protection Act, 2019 are also maintainable with respect to services rendered by ESIC. A number of cases at the district court level, therefore, relate to the cases arising from allegation of deficiency



- in service before district consumer for against the organisation. Such cases need to be defended effectively to secure the interest of the organisation.
- ii. All Consumer Commission cases shall be appropriately defended to avoid adverse orders. Wherever the assistance of panel advocates is required, Regional Director of Regional Offices or SRO Incharges or MS of ESIC Hospitals are allowed to engage the advocates for proper defence. Routine mechanical filing of appeals should be avoided.
  - iii. On the receipt of the notice, it shall be ensured that a proper written reply/ counter is filed within stipulated time, incorporating preamble, the provisions of the act and scheme followed by narration of facts of the case.
  - iv. As DCDRC cases originate from service related issues to beneficiaries of the ESI Scheme, it shall be ensured that the scheme provisions are elaborately explained in the counter before the same is filed. The counters in all DCDRC cases shall be vetted and filed by or on behalf of MS of ESIC Hospitals or Regional Director /SRO Incharges.
  - v. In cases where two offices are involved in a complaint before the DCDRC Commission, the office where the accounts of the complainant/ concerned IP are linked shall provide the related information and para-wise comments in time to the office where the Consumer Commission case is filed. Proper coordination and liaison must be done between the offices involved in such cases to avoid the adverse orders in the interest of the organisation. The office where Consumer Commission case is filed shall immediately inform the office to which the case relates to. It shall be ensured that counter is filed within time and an advocate engaged appears on the dates of hearing.
  - vi. Communication between two field offices, in such DCDRC cases, shall be compulsorily made by an officer not below the rank of Assistant Director.
  - vii. Regional Director of Regional Offices / SRO Incharge /or MS of ESIC Hospitals, shall invariably examine and mention in their affidavits whether the case under reference in various consumers courts fall under the ambit of the Consumer Protection Act 2019 or not and the point of jurisdiction of the respective DCDRC should also be thoroughly examined in the light of Section 34 of Consumer Protection Act 2019 and agitated accordingly.
  - viii. Zonal ICs and Regional Directors or MSs of ESIC Hospitals must review periodically the status of Consumer Forum cases personally. It should be ensured that proper written statement/ counter reply is filed in each case describing the relevant provision of act and scheme. The courts should also

- ix. Zonal ICs / Regional Director /or MS of ESIC Hospitals shall take decision to file appeal before the State Commission well within the prescribed limitation.
- x. Timelines for DCDRC cases:

1.	Updation in LIMBS portal by Branch Officer (Legal) upon receipt of notice	03 days
2.	Concerned Branch to provide information	03 days
3.	Preparation of parawise comments by legal section	01 week
4.	Vetting and approval of reply by Regional Director or MS of ESIC Hospitals	01 week

Following are the steps in which such cases will be dealt: -

- i. Cases filed in CAT shall be attended sincerely and carefully. The cases shall be appropriately defended to avoid adverse orders. Wherever it is considered necessary to engage a counsel to plead the case, the file is put up to the Regional Director/ Joint Director In-charge for naming an advocate from the approved panel.
- ii. Where the opposite party (respondent) is the Corporation, on receipt of copy of the petition/the summons, the Legal Branch at Regional/Sub-Regional office may open a separate file for the said case, call for the information from the concerned branch.
- iii. Legal Division, Headquarters Office shall coordinate in the matters pertaining to Headquarters Office. If the case exclusively belongs to Headquarters' Office then Legal Division of Headquarters Office shall suggest a senior advocate to defend the matter in consultation with concerned Zonal/Regional Office. If required, the parawise comments shall be provided by the concerned subject division timely. Based on the inputs/parawise comments, the counter reply shall be prepared by panel advocate. If the panel advocate requires briefing /conference/documents in the matter then the concerned subject matter division of Headquarters Office will do the necessary briefing/conference with the advocate under intimation to the Legal Division at Hqrs. Office. The draft counter shall be vetted by the Director/Joint Director of the concerned



branch of subject matter and sent back to Legal Division of Headquarters Office.

- iv. In the matter, if UOI/Secretary is a proper/proforma party then UOI/Secretary should not go un-represented. Brief history, parawise comments along with relevant documents in the matter should be provided to the Central Government Counsel appearing on behalf of UOI/Secretary and he should be appropriately briefed by an officer well conversant with the subject matter with request that Interlocutory Application (I.A.) or Miscellaneous Application(M.A.) / application may be filed before the respective court as per requirement of the case in accordance with the law for deletion of name of the UOI/Secretary from respondents' list (if in case of proforma party).
- v. The suitability of filing review appeal before the CAT shall be properly examined. review appeal shall only be recommended where a question of law is wrongly settled by the court. The proposal should be submitted to Regional Heads as per the time limit.
- vi. Timelines for CAT cases: -

1	Updation in LIMBS portal by Branch Officer (Legal) upon receipt of notice	03 days
2	Concerned branch to provide information	03 days
3	Preparation of parawise comments by legal section	01 week
4	Vetting and approval of reply by Regional Director	01 week
5	Filing a review appeal against the order passed by CAT	01 month

## 2.5 Power to accept the court order or power to make appeal to a higher judicial forum

- I. E.I. Courts/Courts of Prosecution/other lower courts --- RD / SRO incharge/ MS of ESIC Hospital.
- II. High Courts/ State level Judicial Forum/CAT Benches --- RD/ MS (Only in respect of ESIC Hospital). (in cases of any urgency on absence of RD/MS --- Zonal IC)
- III. All cases related to functioning of Hqrs or relating to policy decisions of Hqrs --- Director General.
- IV. Supreme Court cases --- Director General / IC (Rev. & Bft.) for cases relating to Revenue/ Benefit matter only.

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## ALTERNATIVE DISPUTE REDRESSAL (ADR) MECHANISM

### 3.1 Plea Bargain:

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- VII) For levying damages and interest separate proceedings may be initiated.
- VIII) In cases where the prosecution is for any other contravention, it should be ensured that the default which was subject matter of the complaint has been made good by the accused at the time of consideration of the request for plea bargain.
- IX) On satisfaction that the contraventions on account of which prosecution was initiated have been made good, the RD has been authorized to communicate consent of the Corporation for such plea bargain to be communicated to the competent court.
- X) Upon approval of RD, it shall be the duty of the Branch Officer (Legal) to send to the trial court, through the panel advocate/ Social Security Officer (Legal), consent of ESIC for such plea bargain.
- XI) The advocate/ SSO(L) conducting the case must be suitably briefed to accept the plea bargain application subject to the conditions enumerated above. An adequate amount of compensation to re-compensate the cost of pursuing the prosecution case must also be sought from the court in the response to the plea bargain application submitted by the accused.
- XII) Upon such consent being filed, the case must be regularly followed and the status of final judgement be uploaded in the LIMBS portal, as and when the same is pronounced.

### 3.2 Lok Adalats:

Lok Adalats are periodically held by all courts to amicably dispose of matters on mutual consented terms between parties to dispute. Cases, involving disputes which can be disposed, on consent, should be taken up in Lok Adalats. The RD of the concerned office shall be the authority to decide referral of a particular matter to the Lok Adalat.

Once a matter has been referred to Lok Adalat, the advocate conducting the case should be briefed and terms of consent be effectively communicated to her/him. For example, cases should be consented to, only after settlement of claims, etc. In no case, where financial loss to the corporation is involved, should be consented to.

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## CHAPTER IV

### APPEALS

- 4.1** The legal remedy action of 'Appeal', is to be made, in case of the judgement or order of legal cases being decided adversely against corporation from subordinate court/judicial forum/tribunal etc. Such adverse order of subordinate courts can be challenged to a higher Judicial Forum/ Tribunal/ Court for the sake of interest of organization. Appeals can be made by opposite parties also.

As an entity in public service, it is important that judicial orders are challenged responsibly at all levels in the organization. Choice of appropriate cases for challenge before a higher court by way of appeal is, therefore, a decision which should be taken at the relevant levels in the organisation with due care and contemplation. The decision to submit an appeal must, therefore, be guided by consideration of justice, fair play and equity. The general tendency to carry every adverse order in appeal must be restricted.

- 4.2** The following guidelines are, therefore, prescribed for dealing with cases where appeals, revisions etc. are intended to be submitted before higher courts: -
- i. As soon as a judicial order is received, the same shall be entered in the LIMBS portal. It shall be the duty of the dealing assistant and the concerned Branch Officer (AD/DD) to ensure that such entry/ up-dation in office records or database is done within three working days for effective monitoring of the case. The opinion of the conducting lawyer should invariably be obtained in such cases.
  - ii. The copy of order shall be submitted with appropriate proposal before the office-in-charge of the office (accounting unit) for appropriate directions.
  - iii. No appeal in High Court or other such Court of appeal, shall be filed without examination and recommendation of Regional Level Committee and/ or approval of the RD or Zonal Insurance Commissioner or the MS (in case of ESIC Hospitals).
  - iv. No appeal in Supreme Court or other such national level courts/forum of appeal, shall be recommended to Headquarters' Office without examination and recommendation of Regional Level Committee or RD or Zonal Insurance Commissioner or the MS (in case of ESIC Hospitals) keeping in view, the merit of the case and grounds of appeal.
  - v. Ordinarily a judicial order must be complied with. In cases, however, where the judgement or the order concerned is flawed either on grounds of incorrect application of law or of incorrect findings of facts or any other consideration



otherwise meriting a challenge to such order, the office -in-charge concerned shall record reasons for submitting an appeal against the disputed order.

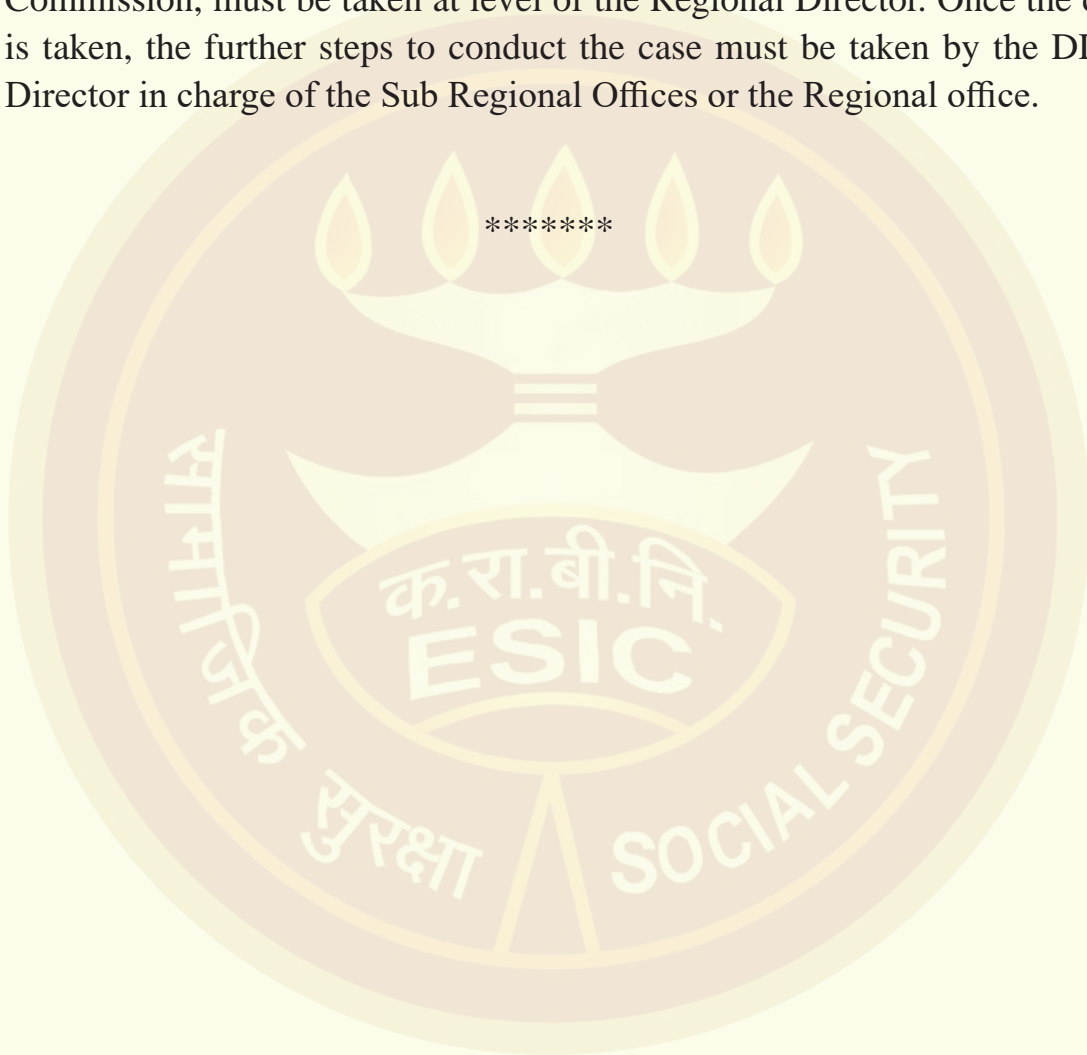
- vi. Appeals should be avoided in cases where insignificant amounts are involved without having any question of law. However, the Headquarters Office may issue any direction, in specific cases and the same shall be followed.
- vii. Appeals must be filed intra court in the first instance exhausting all channels like division bench and full bench.
- viii. Wherever necessary legal opinion from a competent panel advocate, other than the advocate who conducted the case, must be obtained to facilitate an appropriate decision at the level of DD/JD/Director (Office- in- charge) of the office. At least one panel advocate shall give his/her opinion to file further appeal, other than who handled the case in the lower court.
- ix. While taking legal opinion in those cases where any point of law needs clarification; or where ambiguity exists about a legal issue involved for which no administrative instruction is available; or regarding requirement of filing an appeal in legal cases after the judgement is pronounced by a certain judicial forum, the directions of HQ in circular No. Estt./Legal/4034/legal opinion/2023 dated 13.11.2023, may be followed.
- x. In service matters, no appeal shall normally be filed in cases where (a) The matter pertains to an individual grievance without any major repercussion; implicative on the organisation or fellow officials of ESIC; (b) The matter pertains to case of pension or retirement benefits without involving any principle and major issues setting any precedent or major financial implications.
- xi. Further proceedings shall not formally be filed in service matters merely, because the order of the Central Administrative Tribunal affects a number of employees. The question of law and interest of the organisation should also be considered.
- xii. No appeal should be filed, if the matter is covered by a series of judgements of the Tribunal or of the High Courts which have not been challenged in the Supreme Court, or by the judgements of Supreme Court.
- xiii. Appeal shall not be filed in a matter which lacks substantial question of law particularly where two subordinate courts have recorded concrete findings of fact or where no evidence had been led on behalf of the organization.
- xiv. The recommendation for appeal shall be furnished in an objective proforma, elaborating the issues involved, financial implications, policy implications etc.



- xv. However, appeals shall normally be filed challenging orders if, there is a clear error of record and the findings or the case involves a question of law or if it is a question of fact, the conclusion of the fact is so perverse that an honest judicial opinion could not have been arrived at that conclusion or where there is substantial interference with public justice or where there is a question of law arising under the Constitution or where the court has exceeded its jurisdiction or where the court has struck down a statutory provision as ultra vires or the judgement is contrary to a service rule or its interpretation by a High Court or the Supreme Court or the judgement would impact the working of the administration in terms of morale of the service so that the organization is compelled to file a petition or the judgement will have recurring implications upon other cadres or if the judgement involves huge financial claims being made.
- xvi. Once the decision to make an appeal is taken against concerned order/ judgement, further steps to submit an appeal, review, or revision, writ petition, LPA etc must be taken expeditiously and without any loss of time.
- xvii. Appeals shall be drafted with particular attention to the synopsis and list of dates which will carefully crystallize the facts in dispute and the issues involved.
- xviii. It shall be the responsibility of the Legal Branch officer of the accounting unit to prepare grounds of appeal in consultation with the advocate. The grounds so prepared must be approved by the office-in charge and to be forwarded to the concerned advocate for drafting of an appeal and its submission before the appropriate court.
- xix. The limitation period prescribed under various statues for submission of appeals, reviews, revisions, writ petitions etc must be kept in mind and scrupulously followed.
- xx. Once the appeal is submitted in the registry of the concerned court, necessary updation must be made from time to time in the LIMBS portal and the details of the relevant case be recorded in the concerned file of the office. All cases of appeals must be regularly reviewed by the Legal Branch Officer and office-in charge of the office and the performance of concerned counsel of advocate's panel also be evaluated.
- xxi. Cases involving challenge to constitutional validity of any part of the act or any part of the ESIC schemes or any other policy decisions of ESIC must be intimated to the concerned division of Hqrs. with a copy to the Legal Division of the Headquarters, ESIC; and the grounds for contesting of such cases must be

prepared under the guidance of and in consultation with the concerned division of Headquarters ESIC.

- xxii. Where appeal or revision is intended to be submitted against the judgement or order of a single bench of the High Court or of the State Consumer Disputes Redressal Commission, the decision to submit an appeal or revision before the division bench of High Court or the National Consumer Disputes Redressal Commission, must be taken at level of the Regional Director. Once the decision is taken, the further steps to conduct the case must be taken by the DD / JD / Director in charge of the Sub Regional Offices or the Regional office.





## CHAPTER V

### HANDLING CONTEMPT CASES

- 5.1** As per the legal necessity, the first step is to ensure that the orders of Hon'ble Courts are complied, and if any order is against rule position and goes against the tenets of law, then appropriate legal remedy must be taken well within the time limits (circular No. T-11/12/285/2023-Legal dt. 29.08.2023 may also be referred). If the court directions involve matters related to constitutional or legal validity of statutory provisions of the Act/Schemes, Gazette Notifications or policy decisions of ESIC or substantial question of law, then recommendations with a copy of order should be immediately be sent to ESIC, Headquarters on the same day. The officers/authorities should try their best that the opposite litigant is not forced to file contempt cases, against the organisation. The contempt cases not only reflect insensitivity towards orders / directions of the court but also reflects lack of proper supervision and poor handling of situation at Sub-Regional / Regional Office / Hospital / concerned Division level.

It has been repeatedly reiterated to deal effectively with the orders / judgements of the Hon'ble Courts. However, instances of contempt cases being filed in a substantial number, is being noticed.

**5.2 Following guidelines may be followed to deal with contempt matters: -**

- 5.2.1. All cases before Supreme Court shall be conducted by Legal Division, ESIC, Headquarters in coordination with concerned Sub-Regional / Regional Office / ESIC Hospital and concerned division of Headquarters, ESIC.
- 5.2.2 Contempt cases against the officers of the sub-ordinate offices involving the matters within the competence of these officers shall be effectively dealt under the overall supervision of Regional Director/ MS (in case of ESIC Hospital). If these matters involve constitutional or legal validity of statutory provisions of the Act/Schemes, Gazette Notifications or policy decisions of ESIC, then ESIC, Headquarters should be immediately informed without loss of time.
- 5.2.3 The contempt cases / notices against officers of Ministry of Labour & Employment and officers of ESIC, Headquarter:
  - a. Should be informed to ESIC, Headquarters along with (a) brief facts/events, copy of petitions, orders and their relevant Annexures (b) comments of Regional Director (including further proposed course of action) within 2 days.
  - b. It should be followed by draft counter reply on behalf of alleged contemnors within the next 2 days.



- c. The DD / JD / Director (office-in charge) / BO (Legal) / BO (Establishment), at the place where the contempt has been filed shall be the Nodal Officer, who will work in coordination with Regional office, to whom the subject case belongs.
- d. Regional Director shall coordinate all such cases and take all actions and send the report to ESIC, Headquarters. At Headquarters, the case shall be examined by the subject matter division in consultation with Legal Division and ensure that the case is defended effectively before the Court.
- e. All out efforts should be made to get removed the name of UOI / Secretary (L&E) and other senior officers of MoL&E / ESIC, Headquarters, where there is no direct involvement of these officers, at the initial stage of the case.
- f. CGSC (Central Government Standing Counsel) / Counsel appearing on behalf of UOI / Secretary should be appropriately briefed in the matter, if required.
- g. The case details of concerned case to be entered and updated immediately in LIMBS portal.
- h. If appeal against Contempt is required, decision at the earliest (well within the limitation period), must be taken

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## CHAPTER VI

### EMPANELMENT OF ADVOCATES IN ESIC

**6.1** Employees' State Insurance Corporation (ESIC), a statutory body under Ministry of Labour & Employment, Government of India, engages Panel Counsel(s) / Advocates to represent the Employees' State Insurance Corporation before Employees' Insurance Court, District and Subordinate Courts, Magistrate Court, District Consumer Forum and other tribunals or judicial forum. Disputes between Employer and ESIC, Employee and ESIC, Employee and Employer which are raised in the abovementioned courts/ tribunals, are handled through Panel Counsels. Empanelment of Counsels / Advocates at field level is mainly done by Regional Office and if required, due to large number of cases or due to geographical location, then can be done separately by Sub Regional Office / Medical Institution concerned, also.

The Policy on empanelment of Advocates / Counsels aims to regulate the manner and procedure for empanelment, as described in the subsequent paragraphs: -

**6.2 Terms for Empanelment of Counsels: -**

- i) The practising advocates who are registered with Bar Council of India/State Bar Council are eligible for empanelment. The qualification, experience, schedule of fees, other terms and conditions and the application format in which the application has to be made, have been prescribed.
- ii) The Counsels will be empaneled for conducting the cases in which the Employees' State Insurance Corporation is a party. The cases will be assigned to them on 'one case' basis as may be entrusted to them and the Counsel would be required to conduct the cases to its finality.
- iii) The Counsels would be on the panel ordinarily for a period of three years and continue with the cases allotted to them even beyond 3 years unless terminated. They may be removed from the panel earlier than the time stipulated on immediate notice on either side without assigning any reason thereof, in the interest of the organisation.
- iv) The cases will be allocated to the Counsels on the panel on a case to case basis or region / area basis by the ESIC Office. Head of the concerned office, ESIC, will be the final authority to assign the cases in various Courts to the empaneled Advocates depending upon the requirement / nature of the cases. At Hqrs, the cases can be assigned by JD (Legal) / Director (Legal) / Additional Commissioner (Legal) / IC (Legal).



- v) Empanelment with ESI Corporation is subject to further extension / renewal depending upon the Advocate's performance and service to the satisfaction of the ESI Corporation.

### **6.3 Eligibility Criteria for Empanelment**

- i) Counsel / Advocate should have minimum of 05 years regular practice and standing in the Bar and it is desirable that she / he should have handled Labour Law related cases.
- ii) Counsel / Advocate should be able to represent the ESI Corporation in the EI Court, Magistrate Court, Labour Court, State Consumer Forum, etc., and as such should be well versed with the ESI Act as well as other related Acts and relevant Codes.

### **6.4 Procedure for Empanelment**

- i) The applicant advocate should apply on the format prescribed by the ESIC only, along-with self-certified copies of prescribed documents against the advertisement issued by concerned office.
- ii) Any application received after the last date prescribed in the advertisement shall not be entertained.
- iii) Depending upon the requirement and number of applications received, ESIC reserves the right to shortlist the candidates to be called for interview / interaction, for empanelment / selection.
- iv) Merely fulfilling the eligibility criteria will not confer any right on an applicant advocate to be called for interview / interaction and to be selected.
- v) The decision of the competent authority regarding short listing and selection of the candidates shall be final.
- vi) Canvassing in any form shall be treated as disqualification. The candidature of such applicants shall be rejected forthwith.
- vii) Shortlisted applicant advocates will be informed individually through email and / or Registered Post regarding the date, time and venue of interview.
- viii) The applicant advocate shall bring all original documents at the time of interview/ interaction.
- ix) Letter to applicant advocates confirming their empanelment will be issued by ESIC separately.



## 6.5 Selection of the Panel

Panel will be finalized on the basis of recommendations of a committee to be constituted by Head of the Office.

## 6.6 Tenure of Panel

The Counsels would be on the panel ordinarily for a period of three years and continue with the cases allotted to them even beyond 3 years unless terminated. However, the tenure of the panel may be extended / shortened by the Competent Authority (Head of the ESIC Office), for the reasons to be recorded in writing. Existing panel shall continue till new panel is constituted so that the ongoing legal cases are not affected.

## 6.7 Duties / Responsibilities of the Panel Counsel / Advocate

- i) The counsel shall appear in the E.I. Court, J.M. Court, Session Court, DRT, Consumer forum and other legal forums / fora in the cases allotted to him/her for effectively defending ESIC and safeguarding interest of ESIC.
- ii) She/ He shall advise the ESI Corporation on matters incidental to such litigation and when the case attended by him/her is decided against the ESI Corporation / Government and / or its officers, he should provide written Legal opinion regarding the advisability of filing an appeal or on other issues.
- iii) Render all legal assistance to ESIC in the cases entrusted to him/her.
- iv) Keep ESIC informed of the developments of the case from time to time, particularly with regard to drafting, filing of papers, dates of next hearing of the cases, supply of copies of judgements etc.
- v) Perform such other duties of legal nature, which may be assigned to him/her by this office from time to time.
- vi) Advocate will not absent himself/ herself without prior approval of competent authority from appearance in court for any reason whatsoever. He / she will not seek any adjournment without any valid or cogent reasons.
- vii) Appeals, revision or petition arising from one common judgement or order will be together considered as one case if they are heard together.
- viii) The Social Security Officer (Legal) / Branch Manager of the concerned branch office / any other officer deputed by ESIC will liaise between the Counsel and the ESI Corporation in all the matters connected with the cases entrusted to the Counsels.



- ix) Counsel / Advocate should receive the notices meant for the ESIC from various courts and be able to handle the cases and appear in such matters in the courts and ensure that no ex-parte order is passed against the ESIC.
- x) Counsel / Advocate should be able to handle the cases, which are assigned to them and appear in such assigned cases in the courts and should prepare written statement, appeal memo, application etc. and also provide legal opinion to the ESI Corporation. Advocate will look after and advise the ESI Corporation on legal matters including filing / defending suits, petitions and appeals that may be entrusted to them.
- xi) The empanelled advocate cannot take up any case against ESIC during the period of empanelment and shall not do things prejudicial to the interest of the Corporation.
- xii) Advocate empanelled will have to collect and produce the certified copy of judgment and other related orders pertaining to the cases dealt by them within the stipulated time along with legal opinion so as to enable ESIC to proceed further.
- xiii) Advocate entrusted with the cases, should immediately ensure that necessary action is taken for receipts of fine and such other cost of litigation as ordered by the Court and is promptly credited to the ESI Corporation.
- xiv) Advocates have to adhere to the instructions / guidelines issued by the ESI Corporation from time to time.
- xv) A report on progress of suits / cases entrusted to the Advocates would be sent to the Legal Branch, ESIC by 10th of every month with a copy to Head of the concerned ESIC Office.
- xvi) Advocates will not be entitled to any travelling expenses or any miscellaneous allowance for visiting branches or courts.
- xvii) Advocates shall not use ESI Corporation name or logo/symbol in letter heads, sign boards and name plates etc.
- xviii) It may be noted that advocate empanelment does not amount to an appointment or right for an appointment. Corporation is free to engage any advocate of its choice; and no right exists with the advocate to claim any particular case.
- xix) When any case attended by the advocate is decided against the ESI Corporation, the Advocate concerned must give considered opinion regarding the reasons for such adverse order and the advisability of filing an appeal from such a decision not later than 5 working days of the order. However, reasons for success may also be forwarded along with final order.

- xx) The advocate's opinion would be an input for ESIC's decision making. Therefore, we would like to state that in the case, Advocate's opinion turns out to be untrue and factually incorrect, causing loss to ESI Corporation, such clarification will be sought, as may be required to investigate the matter and fix the responsibility. In the event, if it is established that wherever gross negligence on advocate's part causing pecuniary damage / loss to the ESI Corporation, advocate's name may be recommended for inclusion in the caution list for circulation among sister concerns i.e. EPFO etc., including Bar Association.
- xxi) Applicant advocates' spouse or juniors or partners in their firm should not represent the opposite party in cases where the advocate is representing ESI Corporation.
- xxii) The empanelled advocate shall not delegate cases and shall themselves deal with the same.
- xxiii) The empanelled advocate shall maintain strict confidentiality of the cases or other matter related to ESIC and shall not divulge any information to any third party or to the media. Any such act may lead to immediate cancellation of empanelment without any further notice.
- xxiv) The Advocates shall accept the terms and condition of the empanelment as determined by the ESIC from time to time.

## **6.8 Fees: As per Chapter VIII**

## **6.9 Right to private practice and restrictions**

- i) A Counsel empanelled with the ESI Corporation will have the right to private practice which should not, however, interfere with the efficient discharge of his/her duties as a Counsel for the ESI Corporation.
- ii) A counsel shall not advise any party or accept any case or brief against the ESI Corporation which is likely to affect or lead to litigation against the ESI Corporation.
- iii) If the counsel happens to be a partner of a firm of Lawyers or Solicitors, it will be incumbent on the firm not to take up any case against the ESI Corporation in any courts or any case arising in other courts out of these cases (e.g) appeals / revisions in the High Court or Supreme Court or other courts or tribunals.

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## ANNEXURE- 'A'

### APPLICATION FORM FOR EMPANELMENT IN ESIC (TO BE FILLED IN BY APPLICANT ADVOCATES)

To  
The  
Regional Office / Sub Regional Office/ ESIC Hospital  
ESI Corporation,  
.....

Photo

Name (In Block letter)	
Father's Name	
Court for which applied (Specify Court wise)	
<b>CHECKLIST</b> List of documents attached (please) <ul style="list-style-type: none"> <li>• Copy of all Certificates &amp; mark - sheets (Graduation onwards)</li> <li>• Copy of Bar Council Registration</li> <li>• Experience Certificates • Duly filled Annexure B</li> <li>• Others (Please specify): 1. _____ 2. _____ 3. _____</li> </ul>	

PERSONAL DETAILS (In Block Letters)		
1	Name in Full	
2	Date of Birth	
3	Nationality	
4	Address for correspondence with PIN and Phone No.	
5	Permanent Address with PIN and Phone No.	
6	Address of office/ chamber, if any, with PIN and Phone	
7	Mobile Number(s)	
8	Email ID	
9	Are you related to any ESIC employees? If so, please give details (viz. Name, designation, place of work & relationship with the applicant)	



10. Details of educational qualification (commencing with the graduation or equivalent examination)

Examinations Passed	Name of the Board/ University	Class or division	% of Marks	Subjects	Year of Passing
LLB/ Law Graduate Degree					
Post Graduation					
Other Professional					
Qualification(s)					

11. Whether the applicant is currently on the panel of any other Government Department/ PSU/ Statutory Body/ Autonomous Body etc. and if yes, the details below:-

(Self-certified copy of the Office Order/letter of empanelment may be attached)

Name of the Department/ PSU/ Statutory Body/ Autonomous Body	From	To

12. Whether the applicant has worked as Legal Researcher (LR) attached to any Court/ judge? If yes, the details and the supporting documents

Name of Court/Judge	Period of Research	Supporting documents

13. If one or more advocates are associated as juniors of the applicant, their details be provided below:-

Sl. No.	Name of the advocates	Enrolment No. with date

14. Infrastructural facilities available with the applicant

(Please if available) be provided below:

Office space	Office clerk	Steno/typist	Support staff



15. No. of Cases relating to ESIC handled earlier: -

Sl. No.	Title of case (documentary proof must be attached)

16. Whether the applicant has been engaged (through Vakalatnama) as counsel in any landmark case? If yes, the particulars of the case with copy of the judgement wherein his/her name is recorded as advocate for one of the parties (copy of order/judgement be attached as proof)

Name of the Court	Case title	Nature of Judgement

17. Whether Income Tax Return is being filed for last five years? Yes/No (If yes, please attach copies of ITRs)

18. Details of Bank Account/PAN Number/Aadhar number be provided below:

Bank Account Details (Bank Account Number, Address of the branch and IFSC code)	PAN number	Aadhar Number

19. Whether any proceeding has ever been commenced or is continuing before the disciplinary committee of the Bar Council for alleged professional misconduct:

Sl. No.	Details of allegations and proceedings	Finding made by the disciplinary committee

20. Whether any criminal complaint has ever been filed or FIR registered or any criminal proceeding has ever commenced against the applicant advocate:

Sl. No.	Details of allegations and proceedings	Finding made by the Court

21. Any additional professional qualification(s), which will further the candidature, including membership of professional society, awards and honours etc. may be listed in the box below, (documentary proofs may be attached)

### UNDERTAKING

- 1) I hereby confirm and declare that the information furnished in the application and in the attached certificate is true/correct and completes to the best of my knowledge and belief. I have not concealed any relevant information. I am fully aware that if any of the information furnished by me is found to be false/incorrect, my candidature for the empanelment will be treated as cancelled and matter will be referred to the appropriate authority.
- 2) I also undertake to maintain absolute secrecy about the cases of the ESIC as required under the act, rules and regulations there under.
- 3) I also undertake to return all case files and records to the ESIC as and when required by ESIC.
- 4) I agree with the fee schedule notified by ESIC.

Place: Signature of the Advocate :

Date: Enrolment number :

Mobile number :





## CHAPTER VII

### PERFORMANCE EVALUATION OF ADVOCATES

- Every Panel Advocate needs to be compulsorily evaluated annually.
- No current panel advocate is to be inducted in new panel unless he/she qualifies both criteria.
- Any advocate whose cases have not yielded any result but are pending before court, decision regarding such advocate may be taken by the Regional Director/ Head of the accounting unit/ Insurance Commissioner (Legal).
- Any advocate who does not meet both the criteria but is an excellent advocate, decision to retain such advocate can be taken by the Regional Director/ Head of the accounting unit/ Insurance Commissioner (Legal).
- The Legal Division, Headquarters Office under the Chairmanship of Insurance Commissioner (Hqrs.) (Legal) shall review the performance of the advocate on the above parameters annually and place a report before the Director General.

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**ADVOCATE PERFORMANCE SHEET**

Name of the Advocate: \_\_\_\_\_

Period of Evaluation: \_\_\_\_\_

S. No	Category	Details	Score Between	Score Given
1.	Drafting Ability	Whether the affidavits/replies, opinions etc. consistently professionally written and well thought out? Is the person careful to avoid errors (typographical, factual or legal) in documents he or she produces? Does the quality of the work product of this person consistently meet standards appropriate to ESIC?	1-20	
2.	Attention to Detail	Does the individual use appropriate care to ensure that legal and factual issues relevant to the matter being handled are properly explored? Is this person consistently well prepared for hearings? Is he or she diligent in documenting significant communications?	1-15	
3.	Analytic Ability	Has this person demonstrated the ability to identify and properly analyse complex issues?	1-15	
4.	Advocacy Skills	Is the person an effective advocate for ESIC's positions in negotiations or at trials or in hearings?	1-20	
5.	Promptness in Response	Does the advocate reply promptly and does the assigned work effectively?	1-15	

6.	Ability to Work Independently	Does this person regularly handle complex and/or significant matters? Has he or she demonstrated the ability to handle complicated matters competently with minimal supervision? Do you have confidence delegating responsibility for complex matters to this person?	1-15	
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**Total Score from above: /100**

**Details of Allotted Case(s):**

No. of Cases Initially Allotted (Opening Balance as on _____)	Court	No. of cases added	No. of cases Won	No. of cases Lost	No. of cases Remanded Back	Pending (Closing Balance as on _____)

**Cases Pending with the Advocate:**

Cases where counter to WP/ Rejoinder/ IA/ MA etc. files	Cases where early hearing applications filed and when	15 Oldest pending cases and reasons for their pendency	Financial implication in the matters

Win Percentage = %

Advocate should only be allowed to continue in Panel if he/she qualifies following criteria:

- Total Score out of one hundred should be greater than fifty.
- Win Percentage should be greater than 50%.

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## PAYMENT OF FEES TO PANEL ADVOCATES

Retainership fee for Standing Counsels before Hon'ble Supreme Court, Hon'ble High Courts and Hon'ble CAT @ Rs. 6,000/- p.m. respectively. Headquarters vide Circular No. T-11/12/2/2016-Legal dated 02.01.2017 and 01.05.2019 has conveyed the approval of competent authority on revision of the structure of fee in relation to Advocates / Panel Counsels and various categories of legal practitioners engaged by the ESIC.

Fee Structure PER CASE including Misc. Application		
S. No.	Court	Consolidated Fees
1.	High Courts, National Consumer Forum, NCLAT	Rs.25,000/-
2.	CAT	Rs.20,000/-
3.	State Consumer Forum, District and Subordinate Courts and other Tribunals including NCLT	Rs.12,000/-
4.	E.I. Courts, Magistrate Courts, District Consumer Forum	Rs.5,000/-
5.	<p>1. 50% of the fee shall be paid on the completion of pleading and balance 50% shall be paid after arguments, finalization of the case and on submission of certified copy of the judgement along with his/her opinion in case the judgement goes against the corporation either in full or part.</p> <p>2. Misc. Expenditure including Court Fees shall be paid on actual basis on the submission of bills along with the statements and/or vouchers.</p>	

**8.2 In the case, ESIC Panel Counsels opt for fee on per appearance basis in CAT, High Courts, NCLAT & National Consumer Forum, it shall be paid as applicable rates as mentioned below:**



S. No.	Details of Work	Proposed Revised Fee
1.	Fee for effective hearing Counsel Junior Counsel (Proxy)	Rs.9,000/- per appearance Rs.2,250/- per appearance
2.	Fee for non-effective hearing Counsel Junior Counsel (Proxy)	Rs. 1500/- per appearance Rs. 450/- per appearance (Maximum five such hearings)
3.	Fee drafting Pleadings Counsel Junior Counsel	Rs.3,000/- per pleading Rs.1,350/- per pleading
4.	Conference Fee Counsel Junior Counsel	Rs. 900/-per conference Rs.450/-per conference (Maximum three such conferences in a case)
5.	Daily Fee out of Headquarters Senior Counsel Junior Counsel	Rs.3,000/- per day Rs.2,250/- per day

The effective/non-effectiveness of the hearing should be ensured as per OM dated 11/09/2000 while making payment of fees as per Govt. of India rates.

For Advocates/Counselors seeking professional fees at senior counsel rates, the prior approval of status of the counselors needs to be obtained from the Headquarters in terms of OM No. No.T-11/12/2/2016-Legal dated 02.01.2017.

- 8.3** Subsequent to adoption of the Notification F.No.26(1)/2014 dated 01.10.2015 issued by Ministry of Law & Justice in respect of Law Officers (Condition of Service) Amendment Rules, 2015 for regulating the fees in respect of Attorney General (AG), Solicitor General (SG), Addl. Solicitor General (ASG), Special Counsel (Ex. – AG, SG, ASG) and Senior Advocates appointment by the Hon'ble Courts. Accordingly, the Fee Structure for various courts are as under:

(A)

THE FEE STRUCTURE APPLICABLE TO GROUP 'A', 'B' AND 'C' PANEL COUNSELS IN SUPREME COURT

S. No.	Item of Work	Revised Fee Group 'A' Panel Counsel	Revised Fee Group 'B' and 'C' Panel Counsel
1.	All Regular Appeals and Defended Writ Petitions (for final hearing)	Rs.13,500/- per case per day	Rs. 9,000/- per case per day
2.	All Defended Admission matters (SLP/TP and Writ Petitions and other misc. matters for admission)	Rs.9,000/- per case per day	Rs.4,500/- per case per day
3.	Settling of pleadings	Rs.5,250/- per case	---
4.	Appearance in Misc. Applications	Rs.4,500/- per case	---
5.	Conference	Rs.900/- per conference	---
6.	Out of Headquarter	Rs.13,500/- daily fee for the days of his absence from HQ	Rs.9,000/- daily fee for the days of his absence from HQ
7.	Conveyance charges for performing local journey while outside Headquarter	Rs.1,500/-	Rs. 1,500/-
8.	Clerkage	NIL	NIL
9.	Drafting SLP/ Counter Affidavit/ Rejoinder, etc.	---	Rs.3,000/- per case
10.	Drawing Written submission	---	Rs.3,000/- per case
11.	Drafting or Appearance in Misc. applications (including mentioning of the case/caveat/ clearance/ obtaining the number and taking date for hearing)	---	Rs.3,000/- per case

All other terms and conditions application to Group 'A', 'B' and 'C' Panel Counsel in Supreme Court in the pre-revised OM no.21(04)/1999-Judl. Dated 24.09.1999 read with OM No.21(05)/2011-Judl. Dated 01.10.2011 shall continue to remain applicable unless specifically revoked/revised.

(B)

The Fee Structure applicable to Assistant Solicitors General of various High Courts, Central Government Standing Counsel of Delhi High Court (CGSC), Senior Central Government Standing Counsel (Sr. CGSC) of various Benches of CAT and Senior Panel Counsels in various High Courts/ CAT Benches (excluding the High Courts of Bombay and Calcutta) as per the following rates:

S. No.	Item of Work	Revised Fee
1.	Suits, Writ Petitions and Appeals including oral applications for leave to appeal to Supreme Court in Writ Petitions	Rs.9,000/- per case per day of effective hearing in case of non-effective hearing Rs.1,500/- per day subject to a maximum of 5 hearings.
2.	Application for leave to Appeal to Supreme Court in Writ Petitions	Rs.3,000/- per case
3.	Settling pleadings	Rs.3,000/- per case
4.	Misc. Application	Rs.3,000/- per case
5.	Conference	Rs.900/- per conference subject to: (i) For setting pleadings – on conference (ii) In respect of hearing Writ matters, Suits, Appeals and Supreme Courts leave applications etc – three conferences (maximum)
6.	Misc. and out of pocket expenses	As per actual to the satisfaction of the administrative Ministry/ Department

All other terms and conditions applicable to the above-mentioned counsels in various High Courts/CAT Benches as laid down vide the Department of Legal Affairs, OM No.26(2)/99-Judl. all dated 24.09.99 read with OM No.26(1)/2005-Judl. dated 31.01.2008, OM No.23(2)/2001-Judl. dated 14.05.2001 and OM No.23(2)/2011-Judl. dated 01.09.2011 shall continue to remain applicable.

The Central Government Standing Counsels who have accepted and attended the Court on behalf of Union of India/ESIC and ESIC Counsels could not appear, the fee shall be regulated as per the OM No.33(1)/2000-Judl dated 11.09.2000 issued by the Ministry of Law, Justice and Company Affairs, Govt. of India.



## 8.4 General Instructions:

- I. The revised fee structure is broadly based on the circular bearing No. 26(1)2014/Judl. dated 01.10.2015 read in conjunction with the circulars dated 24.09.1999, 01.10.2011 and various clarifications issued by the Department of Legal Affairs, Ministry of Law and Justice, Govt. of India.
- II. Rates of fee prescribed shall also be applicable for items of legal work done by advocate in connection with a litigation in any other tribunal(s) or adjudicatory forum.
- III. Fee other than prescribed in this chapter shall not be allowed unless specifically authorized by competent authority in view of special complexity of the case involving high financial implication and/or important policy matter.
- IV. The payment to CGSCs/Counsel appearing on behalf of Union of India should not normally be paid by ESIC unless specifically directed by the Central Government.
- V. A claim for fee for attending court hearing will be entertained only if the appearance of advocate(s) engaged (conducting or arguing counsel) in a case is recorded in the Daily Order Sheet related to the hearing. In any case where an advocate claims to have participated in a hearing but his/her name does not find mentioned in the related Daily Order Sheet, the onus to prove the participation in the said hearing shall lie with the advocate concerned.
- VI. Claim for drafting/filling/settling of pleadings/petition/OA/ counter affidavit/rejoinder/caveat/misc. application will be entertained only when a copy of the filed document is enclosed with the bill.
- VII. Claim for typing and photocopying charges will be restricted to the number of pages in the petition/counter affidavit/rejoinder/misc. application/etc, subject to maximum of Rs.2/- per page on submission of bill.
- VIII. A bill in respect of an individual legal case may be presented by an advocate for each item of work as soon as it becomes due without waiting for that legal case to get over. The ESIC office concerned shall process the bills immediately and the payment shall be released within two months of the date of the receipt of bill complete in all respect.
- IX. The phrase "ESIC" includes its Offices and Officers and should be constructed according to the demand of the context.
- X. Identical cases have been explained in OM dated 24.09.1999 of Ministry of Law and Justice, GOI, as follows:



“Two or more cases in which substantially identical questions of law or facts are involved and where the main difference is in the names, addresses of the parties concerned, amount of money involved, etc. where the common or identical judgements are delivered irrespective of the fact whether all the cases are heard together or not.”

Where two or more cases (but not more than 10 cases) involving substantially identical question of law of facts, any one of such cases will be treated as a main case and others as connected cases and the fees in such cases will be regulated as under, irrespective of the fact whether all the cases are heard together or not:

- (a) When the argument is heard in the main case and the other cases are decided accordingly, the counsel shall be paid the full fee in the main case and Rs. 90/- for each of the connected cases, but subject to a maximum of 10 cases only.
- XI. Effective Hearing Means: A hearing in which either one or both the parties involved in a case are heard by the Court. If the case is mentioned and adjourned or only directions are given or only judgement is delivered by the court, it would not constitute an effective hearing but will be termed as non-effective hearing.
- XII. In a civil case, a date, on which plaint/petitioner/written statements is filed or the issues are framed or a hearing in which witnesses are examined by way of filing of affidavit or otherwise or cross-examination take place, or an important miscellaneous application is argued, or final arguments take place, is an instance of effective hearing.
- XIII. In a criminal case, a date, where charge or notice, as the case may be, is framed against the accused or hearing wherein recording of testimonies of witness including cross examination or recording of statement of the accused under section 281 of 313 Cr. P.C. take place or defence witnesses are examined or argument on any important miscellaneous application is heard, is an instance of effective hearing.
- XIV. An empanelled advocate or other legal practitioner to whom a case has been assigned, is bound to attend all hearings in that case whether effective or non-effective.
- XV. Travel out of Headquarters: If a counsel is required to go out of the Headquarters in connection with assigned legal work like for conference with the Senior Counsel, appearance in a court outside the Headquarters of his panel etc., he will be entitled to reimbursement of expenses incurred for travel, lodging and boarding at par with a Group A officer in Junior Administrative Grade (JAG). Any special fee shall be approved by the competent authority.

- XVI. The competent authority to approve the legal fee bill shall be as per the schedule of Financial and Administrative Powers, issued by the ESIC, Headquarters as amended from time to time
- XVII. If in a particular case, it is ascertained by the Officer Incharge that the best interest of the ESIC can be served by engaging an advocate outside the panel (other than senior advocate), the reason for engaging such advocate may be recorded by the Officer Incharge of the SRO concerned or the concerned Branch Officer of the Regional Office and conveyed to the Regional Director concerned for his/her approval. If an advocate outside the panel is engaged, the fee structure prescribed in the instant circular shall apply to the work done by such advocates as well.
- XVIII. An advocate can be engaged from outside the panel of the ESIC, against a fee which is higher than that prescribed in the instant circular, if his/her engagement for litigation is considered desirable to protect or promote the best interest of ESIC. Such an advocate can be engaged after securing the permission of the Competent Authority, only.
- XIX. Any issue, on which this circular is silent or lacks clarity, shall be examined by the Regional Director concerned and in case the Regional Director feels the need for any clarification, the same may be referred to Legal Branch, Headquarters clearly specifying the point on which clarity is sought. The decision of Hqrs. in such cases will be final.
- XX. The revised rates shall be applicable from the date of issue of communication in that regard.

**8.5 Charges for Legal Opinion / Vetting** from Panel Advocate (other than conducting counsel of the case): @ Rs .6,000/- per opinion/vetting per case and photocopy charges subject to maximum of Rs.500/-, if any. Further, prior approval of the Director General is required for seeking legal opinion/vetting from outside the panel of the ESIC, against a fee which is higher than that prescribed in this framework. The legal opinion should be taken only in extraordinary situation and not in a routine manner.

## **8.6 Senior Advocates:**

Engagement of Senior Advocate shall not be a routine. However, in some matters such as involving prime importance, or having huge financial implications, or involving challenge to Constitutional or legal validity of Statutory provisions of the Act/Schemes or Gazette Notifications or policy decisions of ESIC or where substantial question of law is involved or any adverse view is being taken in





contempt cases against Head of the Organisation or Central Government Officers etc. the services of Senior Advocates become necessary.

‘Senior advocate’ here means any advocate so designated under subsection (2) of Section 16 of the Advocates Act, 1916 (25 of 1961), and all such advocates whose names were borne on the role of the senior advocates of the court immediately before the commencement of Chapter III of the Advocates Act, 1961. Therefore, such advocates may be required to be engaged from outside the panel of the ESIC, against a fee which is higher than that prescribed in this framework.

If the engagement of a Senior Advocate for a litigation is considered desirable to protect or promote the best interest of ESIC such an advocate can be engaged after recording the reason and justification and after obtaining the permission of the Director General/ Insurance Commissioner (Legal) or such officer as may be authorized by Director General.

Before the matter is placed before the Director General following may be ensured:

- The conducting panel advocate appearing in the matter shall suggest the name(s) of senior advocate of high repute to defend matter.
- The willingness of senior advocate and schedule of fees to be charged may be obtained in writing.
- The name of Advocate General/Solicitor General of India/ASGI may also be suggested and efforts should be to engage them on the fee schedule published by the Ministry of Law and Justice.
- The important case orders/ judgements of these proposed Senior advocates / Advocate General / Solicitor General of India/ ASGI may also form part of the proposal.
- Regional Director shall examine the matter and then send the proposal with reasons / justification and recommendations in the matter. The justification should also contain as to why the conducting advocate will not be able to contest alone in the matter.
- The matter shall be examined by the Headquarters (Legal Division) and shall be placed before the Director General.

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## CHAPTER IX

### HANDLING NOTICES FROM ESI BENEFICIARIES AND ESIC EMPLOYEES/ OFFICERS

- 9.1** There are certain Acts under which the legal notice is required to be served upon the necessary party before a litigation can be initiated whereas there is no requirement of any legal notice to be served upon any authority under the ESI Act, 1948. However, in some cases especially in the benefit related matters of Insured Persons, notices are received requiring ESIC to redress the grievance of the Insured Persons. It should be ensured that if the notice pertains to any deficiency of service on part of ESIC and which can be redressed through administrative action, it may be so ensured, so that these cases are not escalated into litigation before consumer courts. These notices may be reviewed on fortnightly basis by each Regional Office through a committee consisting of RD, BO Benefit & BO Legal. In case there are no notices received in the last fortnight, a 'NIL' report may be recorded.
- 9.2** Similarly, the requests/representations received from serving and /or retired officers / officials of ESIC requesting for remedial action in redressing their grievance pertaining to fixation of pay, seniority, transfer, Regular promotion, holding of timely DPC etc. should be taken up on priority. If the grievances so raised can be resolved within the existing rules or directions. For this purpose, a committee named National Litigation Committee (NLC) is constituted by DG at ESIC, HQ level. The committee functions as an appellate forum to resolve dispute / grievances relating to service matters before the officials / officers approach the relevant judicial forum for redressal. The current/present cases before any judicial forum may also be considered by the committee if such an application is made by any of the parties to the case. The committees shall meet regularly on monthly or quarterly basis. For filing Original Application (OA) before CAT, one should exhaust all remedies available in the office procedure including the channel of NLC, which are to be specifically mentioned in the OA.

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## CHAPTER X

### LEGAL INFORMATION MANAGEMENT & BRIEFING SYSTEM

**10.1** Legal Information Management and Briefing System (LIMBS) was launched by Department of Legal Affairs, Ministry of Law & Justice to monitor conduct of cases on behalf of Union of India and organizations under the administrative control of Central Government through web-based applications. ESIC implemented LIMBS in June 2017 and all the cases of the organization can now be tracked online via this software.

LIMBS is a web-based platform which provides common access portal to all users having varying needs and a web-based tool for comprehensive, regulatory and pro-active monitoring of court cases. The link <http://www.limbs.gov.in> contains user manual for LIMBS 2.0 for better understanding of functions, a copy of available guidelines is attached as Annexure-1.

#### **10.2 Monitoring Mechanism: -**

The Nodal Officer nominated for LIMBS portal should not be below the rank of Asstt. Director or equivalent.

- i. All the Zonal/ Regional Offices/ ESIC hospitals/ Sub-Regional Offices must have the LIMBS ID. If there are any changes in the details of the Nodal Officer and change is required to be effected by Nodal Officer, Head Office then a change request may be initiated, and Nodal Officer at Unit level may be informed at [legal-hq@esic.nic.in](mailto:legal-hq@esic.nic.in) for effecting the changes.
- ii. The cases shall be entered/updated in LIMBS portal by the offices, either whose orders/actions have been challenged or who have challenged the orders of courts.
- iii. To avoid duplicity, Nodal Officers at Hqrs. shall enter/ update only those cases in LIMBS portal, where respondent is Union of India/ ESIC, Hqrs. but not field offices. They may also enter/ update the cases defended by ESIC Hqrs. level in CAT, High Court, Supreme Court only.
- iv. All legal cases including prosecution cases under Section 86 of the Act should be entered and updated promptly.
- v. Divisional Heads (Legal/concerned), HQ / Zonal ICs/ Regional Directors/ SRO In-charge shall monitor / review the legal cases and ensure that the cases are entered and updated in LIMBS portal promptly.



- vi. The following monitoring tools shall be used from LIMBS-Reports are available in LIMBS portal following important reports may be reviewed regularly. At least on weekly basis the Regional Heads should review these reports.
- a.) Total Summary-This is the most crucial tool and gives a bird's eye-view of the entire litigation eco system. It provides important classification regarding pendency of cases for more than 5 years & 10 years and of cases involving financials exceeding one hundred crores & ten hundred crores. An Important aspect in this summary pertains to cases where UOI is the proforma party. Therefore, based on the petitions correct marking should be done so that in cases pertaining to UOI as proforma party no affidavit of UOI should be insisted and ESIC should contest these cases on their own.
- b.) Status wise summary- This report gives details of court wise cases at various stages from appeal to archiving. Stage wise cases pertaining to the unit shall be reviewed on weekly basis and compliance of direction of the Regional Heads should be ensured from the subordinate unit.
- c.) Category wise summary - This report gives court wise details of category of cases.
- d.) Financial wise summary - This report gives details of cases categories in various financial implication ranging from Rs. one Lakh to more than Rs. One hundred Crores and is the most valuable tool from the view point of financial implication involved in matter.
- e.) Important case wise summary - The category 'important' is mentioned by each user himself. Once the case is marked important it appears in this category and Secretary, L&E monitors these cases. Regional Heads should monitor these cases on weekly basis and take appropriate action for updation of various action involved.
- f.) Priority wise case summary- In view of the directions issued by D.O. Letter No. LA-85014/2/2023-LIMBS dated 13th December, 2023 of Department of Legal Affairs, Ministry of Law and Justice, to effectively of pending cases by choosing high, medium and low priority button. The new fields of 'action points' to be undertaken by the department and the 'officer responsible' for the same helps in monitoring of cases and timely compliance of the order or direction of any court or tribunal.
- g.) Court wise summary - This report gives details of matters pending in various courts. The correct marking of the court is especially important. This tool helps in review of court wise matters.



- h.) Total report for exception -This report alerts cases where next date of hearing or any correction in data base is required. This report should be accessed by the nodal officer on daily basis.
- i.) Member list - This report gives details of nodal officers of various user i.e., Regional Offices. The details of users should be updated whenever the user changed or any detail of the user such as his/her mobile number, email ID etc. changes. As per rule, the users in Regional Office shall be only one. The multiple users should be de-activated.
- vii. The nodal officer shall daily open the LIMBS portal and update the data of new cases, counter replies, updating date of hearing, exception cases etc.
- viii. The nodal officer responsible for data entry should thoroughly follow the structure of data entry of new entry and proceedings and the entire data base is created based on these entries.
- ix. The Regional Director/SRO In-charge should review exception entries, report of decided cases, report of lost cases, report of cases with direction, cases involving financial implication more than Rs.1 crore & Rs. 100 crore and status of filing counter affidavit on daily basis.
- x. Root cause analysis of all the lost cases shall be conducted thoroughly by Regional Director and report must be submitted to Legal Division, ESIC HQ on monthly basis and recommend action, which may be required at ESIC Hqrs. in policy or operational guidelines to prevent recurrence of lost cases.
- xi. On similar lines, the Insurance Commissioner, Legal shall also conduct monthly monitoring and record the discussion.

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## CHAPTER XI

### CASES UNDER INSOLVENCY AND BANKRUPTCY CODE, 2016

- 11.1** The promulgation of Insolvency and Bankruptcy Code, 2016, (IBC) has consolidated the legal framework about recovery of debts, charges and liens from companies, firms and individuals going insolvent. The Code provides a common legal platform for contestation and adjudication of all claims of debts and charges against an insolvent corporate debtor in supersession of all mechanisms and procedures available hitherto.
- 11.2** All claims and procedures under the IBC are strictly time bound and therefore, required to be taken recourse of at the earliest available opportunity within the limitations prescribed therein. The following directions are, therefore, issued for compliance by all field formations in dealing with matters of recovery of ESI dues from corporate debtors undergoing corporate insolvency resolution process (CIRP):-
- i. ESIC field offices must handle all receipts or notices from the Insolvency and Bankruptcy Board of India (IBBI). An effort is being made to the effect that all notices issued under CIRP shall be received at one consolidated desk in ESIC and then transmitted to the jurisdictional offices.
  - ii. The jurisdictional offices shall also ensure an independent mechanism of continuous monitoring of the IBBI official website for notices issued under CIRP.
  - iii. As soon as the inspection report containing the extent of dues under the ESI Act is received, a notice of dues should be submitted to the concerned resolution professional or the liquidator within seven days of receipt of the report.
  - iv. The notice to be submitted to the insolvency professional (IRP or the liquidator) should be comprehensive and must contain the entire quantum of dues under the Act including defaulted contributions, damages and interest payable by the insolvent establishment.
  - v. Notices to insolvency professionals are submitted by the concerned ESIC as creditors. Such notices of debt are then dealt with by the insolvency professionals as per the waterfall mechanism of section 53 of the IBC by treating the dues under ESI Act as debts payable by the insolvent establishment.
  - vi. Section 94 of the ESI Act, 1948 stipulates that dues to the Corporation has priority over other debts and provides as follows:

“94. Contributions, etc., due to Corporation to have priority over other debts.- There shall be deemed to be included among the debts which, under Section 49 of the Presidency-towns Insolvency Act, 1909 (3 of 1909) or under Section 61 of the Provincial Insolvency Act, 1920 (5 of 1920), 8(or under any law relating to insolvency in force 9(in the territories which, immediately before the 1st November, 1956 were comprised in a Part B State)), 10(or under Section 530 of the Companies Act, 1956 (1 of 1956)), are, in the distribution of the property of the insolvent or in the distribution of the assets of a company being wound up, to be paid in priority to all other debts, the amount due in respect of any contribution or any other amount payable under this Act the liability where for accrued before the date of the order of adjudication of the insolvent or the date of the winding up, as the case may be.”

- vii. However, the above provisions were enacted in the year 1948. Subsequently, IBC Act was enacted in 2016 and Section 53 of IBC Act 2016 reads as follows:

“53. Distribution of assets - (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely: -

- (a) the insolvency resolution process costs and the liquidation costs paid in full;
- (b) the following debts which shall rank equally between and among the following: -
  - (i) workmen's dues for the period of twenty-four months preceding the liquidation commencement date; and
  - (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;
- (c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;
- (d) financial debts owed to unsecured creditors;
- (e) the following dues shall rank equally between and among the following:-
  - (i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;



- (ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;
- (f) any remaining debts and dues;
- (g) preference shareholders, if any; and
- (h) equity shareholders or partners, as the case may be.

Further, Section 238 of the IBC Act is a non-obstante(overriding) clause which stipulates that the provision of IBC Act 2016 shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law. Therefore, Section 94 of ESI Act, has to be read with Section 53(1) of IBC, 2016

- viii. All claims of ESIC dues, therefore, must be submitted in light of different sections of IBC Act, 2016 and the notice of the dues is to be filed with the concerned insolvency professional, constant review of progress should be made. Any query raised by the insolvency professional must be replied quickly and accurately.
- ix. When inquiries under Section 45(A) of ESI Act, 1948 for determination of contribution due are initiated against an establishment undergoing insolvency, the insolvency professional being in shoes of the employer is a necessary party to such adjudication. Notice of such proceedings must invariably be served upon the concerned insolvency professional, and his submissions should be dealt with appropriately in the proceedings.
- x. In cases where the claim of dues, submitted by the jurisdictional ESIC office, is rejected by the concerned insolvency professional, or the adjudicating authority, challenge should be made before the next authority.
- xi. All procedures under the IBC are strictly time bound. Due care should be taken to complete all the procedural requirements at the earliest available opportunity in any case within the limitations available under the Code. Unnecessary references to higher authorities, in matters where the concerned field office is the jurisdictional authority, must be strictly eschewed.

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## Appendices

Sl. No.	Circular/Letter/ Office Memorandum	Subject	Reference Para of LFD	Page Number
1	Circular dated 15/04/2023	Proper Handling of Court Cases	Para 1.11. iii	68
2	Circular dated 24/11/2023	Timeline For Filing SLP/Appeal in Supreme Court and to avoid delay	2.1.iv	70
3	Circular dated 09/05/2023	Effective monitoring of Legal cases by Headquarters Office	2.1.2	73
4	Circular dated 13/11/2023	Seeking Legal Opinion on pure administrative matters	4.2.ix	76
5	Letter dated 29/08/2023	Delay in implementation of order of various courts	5.1	78
6	Office Memorandum dated 02/01/2017	Fees payable to various categories of Advocate/Counsels engaged in ESIC	8.1	79
7	Office Memorandum dated 01/05/2019	Revision of Fee payable to Advocates	8.1	81
8	Office Memorandum dated 01/10/2015 of Ministry of Law & Justice	Revision of Fee payable to Advocates	8.1	82
9	Notification dated 01/10/2015 of Ministry of Law & Justice	Regulation of fee in respect of Attorney General, Solicitor General, Additional SG and Senior Advocates	8.3	89
10	Office Memorandum dated 24/09/1999 of Ministry of Law & Justice	Revision of terms and conditions for appointment of Panel Counsels in Supreme Court	8.3.A	92
11	Office Memorandum dated 24/09/1999 of Ministry of Law & Justice	Section X for meaning of Effective Hearing, Uncontested Case and Identical Cases	8.4.X	97
12	Office Memorandum dated 11/09/2000 of Ministry of Law & Justice	Clarification of doubts regarding payment of fee to advocates (Performa party, identical cases, etc. )		106
13	DO dated 13/10/2023 of Department of Legal Affair, Ministry of Law & Justice	Priority wise case summary on LIMBS portal	10.2.vi.f	110



## Legal Framework Document of Employees' State Insurance Corporation

T-11012/3/2022-LEG

I/361526/2023

1.11 (111)



कर्मचारी राज्य बीमा नियम  
(कर्म और रोजगार विभाग, भारत सरकार)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Government of India)



पंचदीप भवन, सी.आई.डी. मार्ग, नई दिल्ली-110002  
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-  
110002  
E-mail Id- eoffice-hq@esic.nic.in

No.T-11012/3/2022-Legal

Dated:15.04.2023

To,

1. All Divisional Heads, HQ/ IC (NTA)/ All Zonal ICs/All Zonal MCs
2. All ACs/ RDs/ RD incharges/ SRO incharges/ DD (i/c)s/ D(M)D/ MSs of ESIC Hospitals

**Subject: Proper Handling of Court Cases/ Legal Cases -reg.**

Sir/ Madam,

The Director General has expressed his serious concern in different Senior Officers Meetings (SOMs) held on 21-03-23, 28-03-23 and 5-04-23, about handling of the Court cases/ Legal cases. In this regard, it is directed that following guidelines must be followed with utmost attention and sincerity:

1. All legal cases must be monitored closely.
2. Updates may be given on important cases.
3. Responsibility must be fixed in the cases where there is lapse.
4. Accountability must be fixed in cases where the Hon'ble Court(s) impose penalty on ESIC for non-appearance.
5. (a) The Concerned Divisions at HQ and concerned branches at ROs/SROs/ ESIC Hospitals/ D(M)D/ NTA, must be very prompt in responding to queries raised by lawyers in a time bound manner.
- (b) It is requested that special care must be taken by Medical division (Admin. & Med. Legal branches), P&A division, Rev. & Benefit division, Legal branch, PMD at HQ; and Legal Branch, Estt. Branches, Benefit Branch, Revenue Branches of ROs/ SROs/ ESIC Hospitals/ D(M)D etc.
- (c) Zonal ICs and Zonal MCs are also requested to review the Legal cases in their respective zones.
6. The performance of the lawyers also must be monitored for a better handling of court cases.

All field offices are directed to immediately review all the legal cases/ court cases and send action taken reports.

Signed by Ratnesh Kumar  
Gautam  
Date: 15-04-2023 15:15:21  
Reason: Approved

Yours Sincerely

(R. K. Gautam)

Insurance Commissioner (Legal)





T-11012/3/2022-LEG

I/361526/2023

Copy To :-

1. PPS/PS to DG, FC & CVO
2. WCM - for uploading on website
3. Rajbhasha Shakha - for Hindi translation



T-11/12/MISCREV&BFT/2022-LEGAL

I/856619/2023



कर्मचारी राज्य बीमा निगम  
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Govt. of India)



मुख्यालय  
Headquarters  
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Website: www.esic.nic.in / www.esic.in

क्र.सं.- T-11/12/Mis Rev & Bft/2022-Legal

### Circular

विषय -	Timeline for filing SLP/Appeal in Supreme Court and to Avoid Delay.
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Sir,

Please find attached herewith D.O. letter dated 07.11.2023 received from Secretary Central Agency, M/o Law & Justice, on the above captioned subject.

The copy of DO letter is enclosed for necessary action and strict compliance

This issues with the approval of Competent Authority.

Signed by Vijay Bokolia

Date: 24-11-2023 11:42:03

Reason: Approved

Encls. – As Above.

(Vijay Bokolia)  
Dy. Director (Legal)

To,

1. PPS/PS to all Divisional Heads, Headquarters, New Delhi
2. All Divisions Heads at ESIC, Office.
3. All Branches at ESIC Hqrs. Office
4. All RO/SROs/ESICs
5. Insurance Commissioner/Zonal Medical Commissioners
6. All Medical Superintendents of ESIC Hospitals & ESIC Model Hospitals
7. Deputy Directors/Assistant Director concerned of Zonal Vigilance/Finance & Accounts Divisions.
8. Website Content Manager for uploading the order on the website of ESIC.



**Dr. REETA VASISHTA, ILS**  
Secretary to the Government of India  
INCHARGE, CENTRAL AGENCY



भारत सरकार  
GOVERNMENT OF INDIA  
विधि और न्याय मंत्रालय  
MINISTRY OF LAW & JUSTICE  
केंद्रीय अभिकरण  
CENTRAL AGENCY  
सुप्रीम कोर्ट कंपाउंड  
Supreme Court Compound  
नई दिल्ली - 110001  
New Delhi-110001

दिनांक : .....  
7<sup>th</sup> November, 2023  
Date : .....

D.O.No. A-60011/5/2023-Admn.CA

Dear Sir / Madam

The Central Agency is responsible for conducting litigation before Hon'ble Supreme Court of India on behalf of all Ministries/Departments of the Central Government, Union Territories and CAG. All SLPs/Appeals etc. on behalf of the Union of India are filed after obtaining the opinion of Ld. Law Officers on feasibility of filing SLPs/Appeals etc. in the Supreme Court of India through the Central Agency.

2. In order to avoid administrative delay in submitting such cases, where advice is required from the Ministry of Law & Justice for filing SLPs/seeking leave to Appeals/Reply/Counter Affidavit, etc., in the Supreme Court, you are requested to submit the matter directly to the Secretary, Central Agency, Supreme Court Compound, New Delhi.
3. In this regard, attention is invited to the orders passed by the Supreme Court of India, taking a serious view of the delay in filing appeals (viz. SLP (civil) Diary No(s).25547/2020, Union of India & Ors. Versus Radhey Shyam dated 28.01.2020, SLP (Civil) Diary No(s).28554/2020, Union of India & Ors. Versus R. Jayasankaran dated 01.02.2021, SLP (Criminal) Diary No. 24676/2020 Union of India Vs. Jitendra dated 08.01.2021, SLP (Criminal) Diary No.24723/2020, Narcotics Control Bureau Regional Bureau at Jodhpur Vs. Nepal Singh Meena & Anr. dated 08.01.2021). In all the cases, Hon'ble Supreme Court of India, while dismissing the SLPs on the ground of delay in filing SLPs has deprecated the casual manner in which the petitioners have approached the Hon'ble Court for condonation of delay without any cogent or plausible grounds, and has imposed cost to be recovered from the officers responsible for the delay in filing appeals/SLP.
4. Besides the instructions issued in this regard by the Department of Legal Affairs, Cabinet Secretariat had also issued guidelines in this regard vide DO letter No.1/50/3/2016-Cab. dated 16<sup>th</sup> June, 2016 and No.403/1/5/2016-CA.V dated 25<sup>th</sup> November, 2016.
5. Despite regular instructions issued by various entities in this regard, incidents of delay in filing SLPs, seeking leave to Appeals, Reply/Counter Affidavit, etc., have been observed, which could lead to adverse orders by the Hon'ble Supreme Court of India.

Contd...2/-

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10/11/23

DDG (N&S)

11/11/23

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14/11





- 2 -

6. The following timeline for filing SLP/ Appeal may be adhered to, where limitation period is 90 days:

Sl. No.	Action to be taken	SLP/Appeals in Supreme Court
1	Examination and taking administrative decision by the Ministry/Department	10 days
2	Examination and advice/opinion by the Central Agency and the Law Officers	5 days
3	Drafting and forwarding the same to the concerned Ministry/ Departments	10 days
4	Approval of the draft by the concerned Ministry/ Departments and providing necessary documents	5 days
5	Preparing paper book and filing	5 days

7. In other matters, like filing Statutory Appeals, Review Petition and other Affidavits, where limitation period is 60 days or 30 days or any specified time given by the Court, the above timeline may be reduced correspondingly.

8. It may kindly be noted that the orders are available on the same day or by the next day in the matters on the website of Supreme Court i.e. <https://main.sci.gov.in/>. The same can be downloaded for compliance and necessary action by the concerned Ministries. Hence, the Department is required to keep track from the website of the developments in the matters and the orders passed therein to avoid delays in action being taken.

9. Similar cases/issues, if any, which have already been decided by the Supreme Court, shall clearly be highlighted by the Administrative Ministry / Department in their referring note. This shall enable the Law Officer to keep in perspective such similar cases/issues, while rendering the advice opinion in the matter.

10. This issues with the approval of Hon'ble Minister of State for Law and Justice (Independent Charge).

With regards,

Yours sincerely,

  
(Dr. Reeta Vasishta)

To

✓ The Secretaries of all Ministries/Departments.

Copy to:

1. PS to Hon'ble Minister of State for Law and Justice (Independent Charge).
2. All the Ld. Law Officers.



T-11/12/285/2023-Legal

I/410169/2023

2.1.2



कर्मचारी राज्य बीमा निगम  
(एम्प्लोयर्स स्टेट इन्सुरन्स कॉर्पोरेशन)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Government of India)



पंचदीप भवन, पी.आई.सी. मार्ग, नई दिल्ली-110002  
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-  
110002  
E-mail: e-office-hq@esic.nic.in

संख्या :- T-11/12/285/2023-Legal

दिनांक:- .05.2023

**CIRCULAR**

**Sub:- Steps to be taken for effective monitoring of Legal Cases by  
Headquarter Office-reg.**

It has been observed by the Director General during the interaction with the Advocates empaneled by Headquarters Office and also while reviewing the status in some of the important cases handled at Headquarters level that there are lapses in effective monitoring of the cases and coordination between different Branches, Legal Branch and the advocates. Though the monitoring mechanism has been strengthened thereafter, it is essential to ensure better coordination between the advocate handling the case and the dealing Branch at Headquarters for effectively defending the cases in courts. Therefore all the Branches in Headquarters are advised to follow the guidelines given below while preparing the Para-wise comments (PWCs) in all the cases-

1. While submitting PWCs to legal counsel, the PWCs should be indexed with supporting/key documents and the circular/order numbers and dates mentioned in the PWCs should invariably match with the supporting/key documents.
2. It may be ensured that the Vakalatnama, PWCs, and affidavit/counter-affidavit signed by appropriate authority of concerned branch/division are directly handed over or emailed to the advocate concerned and the Legal Branch is kept in the copy/CC invariably.
3. The PWCs approving officer should provide the contact number and email ID of the Deputy Director/Assistant Director concerned to the legal counsel assigned by Legal



T-11/12/285/2023-Legal

I/410169/2023

Cell. Such DD/AD concerned would be in direct communication with the legal counsel concerned on behalf of Branch/Division with reference to the case concerned.

4. In cases where supplementary points/inputs required from other branches/divisions are required the branch who have been assigned the case by legal cell will coordinate with respective branches who have been marked in copy/CC.
5. All communications to the legal counsel should be endorsed/ marked to the Legal Branch also, to avoid any conflicting directions being conveyed to the Counsel by different Branches.
6. The Division concerned should identify the legal case broadly in two categories. The first where policy/act/rules of Corporation or Government of India are challenged and the second category which are for service/administrative matters concerning any individual officer/ staff. All the divisional Heads should keep personal watch over cases challenging policy/act/rules matters for effective defence of the same.
7. Letter dt. 15.04.2023 issued by the Legal Branch must be followed for handling/ reducing the court cases.
8. SSOs of the Legal Branch will attend the respective courts in all cases and will also ensure presence of the concerned Officer/ Dealing Assistant of the concerned branch, in important cases.
9. Where the UOI is a Performa party, by default direction should be incorporated for its removal in PWCs itself.
10. It is to be strictly ensured that any internal communication made between different Branches either while preparing the PWC or subsequently during coordination in such matters is not sent or endorsed to the advocate.
11. In case any Branch finds that a case sent to them for preparing PWC or at a later stage for any clarification did not pertain to them, the fact should be brought to the notice of Legal Branch promptly for necessary action without loss of time so that precious time required for effective action is not compromised.
12. The IC(P&A) and MC(MA) are requested to take urgent and



T-11/12/285/2023-Legal

I/410169/2023

early actions with regard to redressal of such grievances, with regard to which more number of court cases are being filed. This should be made a continuous process with an objective to reduce litigation. Also, periodic review of the cases handled by all Branches under each (all) Division may be carried out for effective monitoring of actions required to be undertaken during the pendency of the cases and subsequent to the receipt of orders, if any, in each case.

It has been instructed to implement the above measures for effective control and monitoring of legal cases. All ROs/SROs/ESICs and their concerned Branches and Branch Officers are also directed to take similar actions as detailed above. Monthly monitoring must be taken by the concerned Regional Directors for their respective States with regard to all legal/ court cases of their own office as well as the SROs and the ESIC Hospitals. All Divisional Heads of the Headquarters Office are requested to take note of all the points detailed above for further necessary action.

This issues with the approval of the Competent Authority.

भवदीय

Signed by VIMAL RAWAT

Date: 09-05-2023 11:23:37

(विमल रायत)

उप निदेशक

(विधि)

Copy to:-

1. PPS to DG/FC/CVO
2. All Divisional Heads at ESIC Hqrs. Office.
3. All Branches at ESIC Hqrs. Office.
4. All ROs/SROs/ ESICs





Estt/Legal/4034/LegalOpinion/2023

I/832226/2023

4.2.(ix)



कर्मचारी राज्य बीमा निगम  
(एम्प्लोयर्स स्टेट इन्सुरन्स कॉर्पोरेशन)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Government of India)



पंचदीप भवन, सी.आई.डी. मार्ग, नई दिल्ली-110002  
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-  
110002  
E-mail id- eoffice-hq@esic.nic.in

No. Estt./Legal/4034/legal opinion/2023 Dated:

**CIRCULAR**

**Sub: Seeking Legal Opinion on pure Administrative matters-reg.**

It is observed that some of the Branches of Hqrs. Office and even some Field Offices regularly seek Legal Opinion on routine Administrative matters which are to be decided at their level on the basis of existing Rules and Instructions.

Legal opinion is required in those cases where any point of Law needs clarification or; ambiguity exists about a legal issue involved for which no administrative instruction is available or; regarding requirement of filing an appeal in legal case after the judgement is pronounced by a certain judicial forum. However, in purely administrative matters, obtaining a legal opinion does not absolve the Corporation nor the Administrative Authority, of the legal consequences of the decision taken.

It may also be kept in view that the legal opinion is rendered by the legal counsel at a financial cost to the Corporation and taking legal opinion in mundane and routine administrative matters is not a prudent financial practice. Further, such actions may lead to delays in administrative decision making process without value addition and may bring a bad name to the organization in addition to increasing the administrative cost.

This issues with the approval of the Director General.

Signed by Vijay Bokolia  
Date: 13-11-2023 17:27:36  
Reason: Approved

(VIJAY BOKOLIA)  
Dy. Director (Legal)





Estt/Legal/4034/LegalOpinion/2023

I/832226/2023

To,

1. PPS/PS to all the Divisional Heads of ESIC Hqrs. Office.
2. All Branches of ESIC Hqrs Office.
3. All Field Units/ All Accounting Units.
4. Website Content Manager - For uploading on the website.
5. Rajbhasha Shakha - For Hindi translation.



## Legal Framework Document of Employees' State Insurance Corporation

T-11/12/285/2023-Legal

I/664785/2023



कर्मचारी राज्य बीमा निगम  
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)  
EMPLOYEES' STATE INSURANCE CORPORATION  
(Ministry of Labour & Employment, Govt. of India)



मुख्यालय  
Headquarters  
पंचदीप भवन सी०आई०जी रोड, नई दिल्ली-110002  
PANCHDEEP BHAWAN, C.I.G. MARG, NEW DELHI-110 002  
Phone: 011-23604700 Email: dir-gen@esic.nic.in  
Website: www.esic.nic.in / www.esic.in

संख्या :- T-11/12/285/2023-Legal

सेवा में,

All Regional Office ,  
All Sub-Regional Office  
ESI Corporation.

All Medical Superintendent/Dean,  
ESI Hospital/College

विषय :-	Delay in implementation final decision of Hon'ble Supreme Court of India/ High Courts/Tribunals/E.I Court/ by branch or division concerned, leading to contempt of court proceedings - reg.
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महाशय,

Please refer to this office circular dated 09.05.2023, on the above mentioned subject. In this connection, it has been observed that final decision of Hon'ble Courts are not been disposed in a timely manner, leading to cases of Contempt of Court. The MoL&E and Director General has taken a serious view of this practice.

It is hereby advised that henceforth all RDs/MSs/Deans/DDs (in-charge) shall personally monitor all Contempt Cases filed in courts under their jurisdiction for complying of decision of Hon'ble Court, filling an appeal against the decision of the court, if required and dropping the same as soon as possible and update all legal cases in LIMBS Portal. It is also requested to send a monthly report (proforma attached) to the Headquarters regarding contempt cases.

This issues with the approval of the Competent Authority.

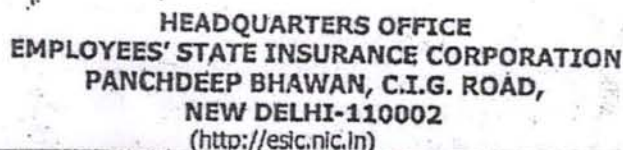
संलग्न:- यथोपरि।

Signed by Vijay Bokolia भवदीय

Date: 29-08-2023 17:41:22

Reason: Approved

( विजय बोकोलिया)  
उप निदेशक (विधि)



**Dated: 02.1.2017**

Sub : Revision of fees payable to various categories of Advocates/  
Counsels engaged in ESIC - regarding

(A) Fee Structure PER CASE including Misc. Application			
S.No.	Court	Consolidated fees.	Remarks
i	High Courts, National Consumer Forum	Rs. 25,000/-	This may be incorporated in Combined DOPs/DOPs Issued to RDs/ Directors/ Joint Director Incharge/ MS/Deans Medical Institutions (wherever applicable)
ii	CAT	Rs. 20,000/-	
iii	State Consumer Forum District and Subordinate Courts and other Tribunals	Rs. 12,000/-	
iv	E.I. Courts, Magistrate Courts, District Consumer Forum	Rs. 5,000/-	
<b>NB</b>	<p>1. 50% of the fee shall be paid on the completion of pleadings and balance 50% shall be paid after arguments, finalization of the case and on submission of certified copy of the judgement alongwith his/her opinion in case the judgement goes against the corporation either in full or part.</p> <p>2. Misc. Expenditure including Court Fees shall be paid on actual basis on the submission of bills alongwith the statements and/or Vouchers.</p>		

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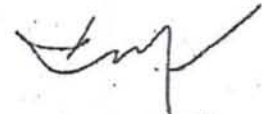
All ESIC panel Counsels shall be entitled for fee structure mentioned at (A) above to the courts mentioned therein. For Courts mentioned at (A) I & II, non-central Govt. panel Counsels shall have option either to opt consolidated fee or the fees applicable to the Jr. Counsels laid down in the OM. However, for payment of fees to Advocates/Counsels at Sr. Counsel rates, the prior approval of status of the Counsels needs to be obtained from the Hqrs.

The Central Govt. Standing Counsels who have accepted and attended the Court on behalf of Union of India/ESIC and ESIC Counsels could not appear, the fee shall be regulated as per the OM no. 33(1)/2000-Judl dated 11/09/2000 issued by the Ministry of Law, Justice and Company Affairs, Govt. of India shall be applicable. (Copy enclosed)

The effective/non-effectiveness of the hearing should be ensured as per OM dated 11/09/2000 while making payment of fees as per Govt. of India rates.

The effective date of the revised fees for (A) & (B) shall be 01-01-2017.

Encl : a.a.

  
(A.K. SAHU)  
JT. DIRECTOR (LEGAL)

Copy to :

1. All Divisional Heads, ESIC, Hqrs./NTA, New Delhi
2. All Regional Directors/Director/Joint Director I/c of ROs/SROs
3. All Medical Superintendents, ESIC Hospitals
4. All Deans, ESIC Medical College/Institutions
5. All Joint Directors (Finance)/Dy. Director (Finance) of ESIC establishments.
6. The Joint Director (E-V/Cash), Hqrs.
7. Web Site Content Manager, ESIC Hqrs. with the request to upload on the web site.
8. Rajbhasha Shakha for Hindi Version/MSU for updates
9. P.S. to D.G.
10. Guard File





HEADQUARTERS OFFICE  
EMPLOYEES' STATE INSURANCE CORPORATION  
PANCHDEEP BHAWAN, C.I.G. ROAD, NEW DELHI  
(<http://esic.nic.in>)

No. T-11/12/2/2016-Legal

Dated: 01.05.2019

**OFFICE MEMORANDUM**

**Subject:- Revision of fees payable to Law Officers, Special Counsel & Senior Advocate- reg.**

In continuation to this Office Memo of even number dated 02.01.2017, the Competent Authority has adopted the Notification F.No.26(1)/2014 dated 01.10.2015 issued by Ministry of Law & Justice in r/o Law Officers (Condition of Service) Amendment Rules, 2015 for regulating the fees in r/o Attorney General (AG), Solicitor General (SG), Addl. Solicitor General (ASG), Special Counsel (Ex.- AG, SG, ASG) and Senior Advocates appointment by the Hon'ble Courts.

Rest of the Contents of OM dated 02.01.2017 shall remain unchanged.



(A.K.SAHU)  
DIRECTOR

To,

1. All Divisional Heads, ESIC, Hqrs./NTA, New Delhi
2. All Regional Directors/Director/Joint Director I/c of Ros/SROs
3. All Medical Superintendent, ESIC Hospitals
4. All Deans, ESIC Medical College/Institution
5. All Joint Directors (Finance)/Dy. Director (Finance) of ESIC establishment
6. The Director (E-V/Cash), Hqrs.
7. Web Site Content Manager, ESIC Hqrs. with the request to upload on the web site.
8. Rajbhasha Shakha for Hindi Version/ MSU for updates
9. P.P.S. To D.G.
10. Guard File



No. 26(1)/2014/Judl.  
Government of India  
Ministry of Law & Justice  
Department of Legal Affairs  
Judicial Section

New Delhi the 1<sup>st</sup> October, 2015

OFFICE MEMORANDUM

Sub: Revision of fee payable to various categories of Central Government counsel.

In partial modification to this Department's various OMs issued from time to time, the undersigned is directed to convey approval of Competent Authority for the revision of the fee structure applicable to Government counsels of all the categories with immediate effect as per the details given below:-

(A)

The Fee structure applicable to Group 'A', 'B' and 'C' panel Counsel in Supreme

Court:-

Sl.No.	Item of work	Revised fee Group 'A' Panel Counsel	Revised fee Group 'B' & 'C' Panel Counsel
1.	All Regular Appeals and defended Writ Petitions (for final hearing)	₹13,500/- per case per day	₹9,000/- per case per day
2.	All defended Admission matters (SLP/TP and writ petitions & other misc. matters for admission)	₹9,000/- per case per day	₹4,500/- per case per day
3.	Settling of pleadings	₹5,250/- per case	---
4.	Appearance in Miscellaneous Applications	₹4,500/- per case	---
5.	Conference	₹900/- per conference	---
6.	Out of Head quarter	₹13,500/- daily fee for the days of his absence from HQ	₹9,000/- daily fee for the days of his absence from HQ
7.	Conveyance charges for performing local journey while outside Headquarter.	₹1,500/-	₹1,500/-
8.	Clerkage	NIL	NIL
9.	Drafting SLP/Counter Affidavit/Rejoinder etc.	---	₹3,000/- per case
10.	Drawing Written Submission	---	₹3,000/- per case



11.	Drafting or Appearance in Miscellaneous Applications (including mentioning of the case/Caveat/Clearance/obtaining the number and taking date for hearing)	---	₹ 3,000/- per case
-----	---	-----	--------------------

All other terms and conditions applicable to Group 'A', 'B' and 'C' Panel Counsel in Supreme Court in the pre-revised OM No. 21(05)/1999-Judl. dated 24.09.1999 read with OM No. 21(05)/2011-Judl. dated 01.10.2011 shall continue to remain applicable unless specifically revoked/revised.

(B)

The Fee structure applicable to Assistant Solicitors General of various High Courts, Central Government Standing Counsel of Delhi High Court (CGSC), Senior Central Government Standing Counsel (Sr. CGSC) of various Benches of CAT and Senior Panel Counsels in various High Courts/ CAT Benches (excluding the High Courts of Bombay and Calcutta) as per the following rates:-

Sl. No.	Item of work	Revised fee
1.	Retainer Fee of:- Assistant Solicitor General of various High Courts, Central Government Standing Counsel of Delhi High Court (CGSC) and, Senior Central Government Standing Counsel (Sr. CGSC) of various Benches of CAT.	₹ 9000/- per month.
2.	Suits, Writ Petitions and Appeals, including oral Applications for Leave to Appeal to Supreme Court in Writ Petitions.	₹ 9000/- per case per day of effective hearing in case of non-effective hearing ₹ 1500/- per day subject to a maximum of 5 hearing
3.	Application for Leave to Appeal to Supreme Court in Writ Petitions:	₹ 3000/- per case
4.	Settling pleadings	₹ 3000/- per case
5.	Miscellaneous Application	₹ 3000/- per case
6.	Conference	₹ 900/- per conference subject to:- (i) for settling pleadings- one conference. (ii) In respect of hearing of Writ matters, Suits, appeals and Supreme courts leave applications etc- Three conference (Maximum)
7.	Miscellaneous and out of pocket expenses	As per actual to the satisfaction of the administrative Ministry/ Department.

All other terms and condition applicable to Senior Panel Counsels in various High Courts/ CAT Benches (excluding the High Courts of Bombay and Calcutta) in to this Department's, OM No. 24(2)/99-Judl., OM No. 25(1)/99-Judl., OM No. 25(3)/99-Judl., and OM No. 26(2)/99-Judl., all dated 24.09.99, read with OM No. 26(1)/2005-Judl. dated 31.01.2008 and OM No. 26(1)/2011-Judl. dated 01.10.2011, shall continue to remain applicable unless specifically revoked/revised.





(C)

Revision of the fee structure applicable to the Panel Counsel of High Courts as well as of CAT Benches of Bombay and Kolkata:-

Sl.No.	Item of Work	Special Counsel	Senior Counsel Group. I	Senior Counsel Group. II	Jr. Counsel Advocate on record
1.	Suits, Appeals, Writ /Revision Petitions including Special Civil Application in the High Court.	₹ 9000	₹ 6000	₹ 3750	₹ 1800
	Per conference/Consultation	₹ 900	₹ 750	₹ 600	₹ 450
2.	Application including Interim Motions, Notices, Appeals, Leave Application, Arbitration, Company Matters, Criminal Revision and other Land Acquisition References (per day per effective hearing)	₹ 3000	₹ 3000	₹ 2250	₹ 1350
	Per conference/Consultation	₹ 900	₹ 750	₹ 600	₹ 450
3.	Drafting or Settling Pleadings, and Affidavits (per pleadings)	₹ 3000	₹ 1800	₹ 1500	₹ 1050
	Per conference/Consultation	₹ 900	₹ 750	₹ 600	₹ 450
4.	Appearance before Arbitration and Tribunals, etc and Courts other than High Courts (Per day per effective hearing).	₹ 7500	₹ 6000	₹ 3750	₹ 2250
	Per conference/Consultation	₹ 900	₹ 750	₹ 600	₹ 450
5.	Chamber Application, including Adjournment Application per day inclusive of consultation	NIL	₹ 1500	₹ 900	₹ 600
6.	Written opinions and written advice including advice on evidence (inclusive of consultation).	₹ 3750	₹ 2250	₹ 1350	₹ 1050

All other terms and conditions applicable to the Counsels of High Courts as well as of the CAT Benches of Bombay and Kolkata in the pre-revised OM No. 23(2)/2001-Judl. & OM No. 22(02)/2001 dated 14<sup>th</sup> July, 2001 read with 23(2)/2011-Judl. dated 1<sup>st</sup> October, 2011 shall continue to remain applicable unless specifically revoked/revised:-

Note:- There will be no ceiling on the number of conference/ consultation in the case of Special Counsel; however in the case of other categories of Counsels, the number of conferences per cases will be limited to four (relaxable to six at the discretion of the Incharge. (Litigation) of Branch Secretariat, Mumbai/Kolkata.



(D)

The Fee structure applicable for Panel Counsel, Delhi High Court and Central Govt. Counsel/Pleader of various High Courts (including Panel Counsel of various CAT Benches) excluding the High Courts of Bombay and Calcutta, as per the following rates:-

Sl.No.	Item of Work	Revised fee
1.	Civil or Criminal Writ Petitions under Article 226 & 227 of the Constitution, Contempt Petitions, Criminal/Civil Revision Petitions, Reference to the High Court under Sales Tax Act and Banking Company Petitions.	₹2250/- per effective hearing  ₹450/- per non-effective hearing (subject to maximum of five hearings in a case)
2.	Original Suits, Civil Appeal from Decrees in Suits and proceedings including second appeal and land acquisition appeal except LPA from Petitions under Article 226 & 227 of the Constitution (including drafting fee)	Ad. Valorem/regulation fee (subject to maximum of ₹ 45,000/- in a case.)
3.	Company Petitions	To be regulated by the rule contained in Appendix (iii) of the Company (Court) Rules, 1959
4.	Drafting of pleadings counter affidavits/returns/answer to Writ Petitions/Grounds of Appeal and application for leave to appeal to the Supreme Court	₹1,350/- per pleading
5.	Drafting of Civil Misc. applications to petitions under the Indian Succession Act, Contempt of Court proceedings and other proceedings of an original nature	₹1,125/- per petition
6.	Civil Misc. petitions, forma pauperis, transfer petitions and other civil misc. petitions of routine nature	₹450/- per petition
7.	Consultation /conference fee.	₹450/- per conference (subject to maximum of 4 conferences in a case)



## Legal Framework Document of Employees' State Insurance Corporation

8.	Appearance before the High Court in application under Section 34 & 37 of the Arbitration and Conciliation Act, 1996 Appearance before Arbitrator/Umpires etc.	₹2,250/- per effective hearing  ₹ 450/- per non-effective hearing (subject to a maximum of 5 hearing in a case).  ₹ 450/- per non-effective hearing (subject to a maximum of 5 hearings in a case).
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All other terms and condition applicable to above mentioned Counsels in to this Department's, in OM No. 24(2)/99-Judl, OM No. 26(1)/99-Judl, OM No. 25(3)/99-Judl. and OM No. 26(2)/99-Judl, all dated 24.09.99 read with OM No. 26(1)/2005-Judl. dated 31.01.2008 and shall continue to remain applicable unless specifically revoked/revised.

(E)

### The Fee structure Standing Govt. Counsel and Additional Standing Govt. Counsel in the District and Subordinate Courts:-

Sl.No.	Item of work	Revised fee
1.	Retainer fee for Standing Govt. Counsel	₹ 6000 per month
2.	Fee for effective hearing	₹ 1800 per day
3.	Fee for non-effective hearing	₹ 800 per day (not more than 5 such hearings in a case)
4.	Fee for drafting Written Statement, Grounds of Appeal etc.	₹ 1500 per pleading
5.	Fee for drafting other pleadings of misc. nature	₹ 600 per pleading
6.	Fee per Conference	₹ 900 (subject to maximum of 5 such conferences in a case / group of identical cases)
7.	Daily fee for out of Headquarters	₹ 2700 per day
8.	Conveyance charges for local journey outside Headquarters	₹ 900 (lump sum)
9.	Expenses for stay in hotels	₹ 1800 per day
10.	Clerkage	@ 10% of total fee excluding miscellaneous and out of pocket expenses (maximum ₹ 5250 in a case)
11.	Fee for Identical Cases	Full fee in the 1 <sup>st</sup> case and ₹ 750 in per suit for connected cases (max. 3 cases)
12.	Miscellaneous and out of pocket expenses	As per actual to the satisfaction of the administrative Department.

All other terms and conditions applicable to above mentioned Counsels in to this Department's, OM No. 27(11)/1999-Judl dated 24.09.1999 read with OM No. 27 (25)/2011-Judl. dated 01.09.2011, shall continue to remain applicable unless specifically revoked/revised.

(F)

The Fee structure applicable to Senior/Junior Arbitration Panel Counsel:-

Sl. No.	Details of work	Proposed Revised fee
1.	Fee for effective hearing Senior Counsel	Rs. 2,250/- per appearance
	Junior Counsel	Rs. 1,500/- per appearance
2.	Fee for non-effective hearing Senior Counsel	Rs. 450/- per appearance
	Junior Counsel	Rs. 300/- per appearance (maximum four such hearings)
3.	For drafting pleadings Senior Counsel	Rs. 1,500/- per pleading
	Junior Counsel	Rs. 750/- per pleading
4.	Conference fee Senior Counsel	Rs. 450/- per conference
	Junior Counsel	Rs. 300/- per conference (maximum three such conferences in a case)
5.	Daily fee out of Headquarters Senior Counsel	Rs. 3,000/- per day
	Junior Counsel	Rs. 2,250/- per day

All other terms and conditions applicable to OM No. 30(3)/99-Judl. dated 24.09.99 read with OM No. 26(1)/2005/Judl. dated 31.01.2008, shall continue to remain applicable unless specifically revoked/revised.





2. The above revised fee will be effective from 01.10. 2015.
3. The counsel will be paid fee at the old rates in respect of their appearance in the Court etc. and other work done by them prior to 01.10. 2015 and at the revised rates in respect of the work done by them on/ after 01.10. 2015.
4. This issues with the approval of the Ministry of Finance, Department of Expenditure E.II(B) Branch, ID-Note No.9 (11)/99-E.II(B) dated 02.03.2015 and 07.08.2015.

(Suresh Chandra)

Joint Secretary and Legal Adviser

Tele No. 23387806

Copy to:

1. All Ministries/Departments to the Government of India.
2. Incharge, Central Agency Section, Litigation (HC) Section, Litigation Lower Courts Section. All Groups-A, B & C panel counsel of Supreme Court through Incharge, Central Agency Section.
3. All Senior Panel Counsel of High Courts/ CATs through concerned Assistant Solicitors General in High Courts/ Sr. CGSC of CATs Benches.
4. All Assistant Solicitors General in various High Courts/ Sr. CGSC of CATs Benches
5. All Central Government Standing Counsel/Central Government Pleaders of Delhi High Court.
6. All Asstt. Solicitors General/Central Legal Adviser of various High Courts.
7. All Senior Central Government Standing Counsel/Addl. Central Government Standing Counsel of various CAT Benches.
8. All Standing Govt. Counsel and Additional Standing Govt. Counsel before various District and Subordinate Courts as per the list.
9. All Senior/Junior Counsel of the Arbitration Panel.
10. All Special Counsel, Senior Counsel Group-I, Senior Counsel Group-II and Junior Counsel of High Courts as well as CATs Benches of Bombay and Kolkata through the concerned Incharge of Branch Secretariat of Bombay and Kolkata.
11. Incharge, Branch Secretariats Mumbai/ Kolkata/ Chennai/ Bangalore.
12. All Sections of Department of Legal Affairs.
13. Legal Advisor, Railway Board, New Delhi (with 5 spare copies).
14. Department of Personnel and Training (AT Section), New Delhi (with 5 s/copies.)
15. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (with 5 s/ copies)
16. CDDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s / copies).
17. Branch Secretariats Mumbai/Calcutta/Chennai/Bangalore.
18. Ministry of Urban Development, Nirman Bhawan, New Delhi.
19. Department of Expenditure, Ministry of Finance, New Delhi w.r.t. their ID Note No.9 (11)/99-E.II(B) dated 02.03.2015 and 07.08.2015..
20. DGS&D, New Delhi.
21. NIC Cell with the request to upload the same in the website of this Department.
22. Judicial Section with 50 spare copies.
23. O.E. Section for Hindi translation.

(Madhulika Upadhyay)

(Madhulika Upadhyay)

J., Central Govt. Advocate

Tel. 23389006



[TO BE PUBLISHED IN PART 2 SECTION 3 SUB-SECTION (i) OF THE  
GAZETTED OF INDIA, EXTRAORDINARY]

GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
(Department of Legal Affairs)

New Delhi, the 1<sup>st</sup> October 2015

NOTIFICATION

G.S.R. .... (E) - In exercise of the powers conferred by the provision to article 309 read with article 76 of the Constitution, the President hereby makes the following rules further to amend the Law Officers (Conditions of Service) Rules, 1987, namely:-

1. (1) These rules may be called the Law Officers (Conditions of Service) Amendment Rules, 2015.  
(2) They shall be deemed to have come into force on the first day of October, 2015 or from the date of appointment of the Law Officer, whichever is later.
2. In the Law Officers (Conditions of Service) Rules, 1987, for rule 7, the following rule shall be substituted, namely:-  
"7. Retainer, fee and allowances. - For the performance of the duties mentioned in Rule 5, a Law Officer shall be paid-  
(a) a retainer, except during the period of his leave,-
  - (i) in the case of the Attorney General, of rupees Seventy-five thousand per month
  - (ii) in the case of the Solicitor-General of rupees Sixty thousand per month; and
  - (iii) in the case of Additional Solicitor General, of rupees Forty-five thousand per month.  
(b) a fee for appearance and other work on behalf of the Government of India in cases before the Supreme Court, various High Courts, Commissions of Inquiry or Tribunals and the like on the following scales namely :-



Sl. No.	Nomenclature of the item of work	Rates of fees payable for appearance and other work in cases before the Supreme Court, High Courts (including Delhi High Court) and any Court (other than the Supreme Court or High Court) or a Tribunal or a Commission of Inquiry or an Arbitrator
1	2	3
(i)	Suits, writ petitions, appeals and references under article 143	₹ 24,000/- per case per day ✓
(ii)	Special leave petitions and other applications	₹ 15,000/- per case per day
(iii)	Settling pleadings (including affidavits)	₹ 7,500/- per pleading
(iv)	Settling Statement of Case	₹ 9,000/- per case
(v)	For giving opinions in statements of cases sent by the Ministry of Law	₹ 15,000/- per case
(vi)	For written submission before the Supreme Court, High Court and Commissions of Inquiry or Tribunals and the like	₹ 15,000/- per case
(vii)	Appearance in Courts outside Delhi.	₹ 60,000/- per day per case

**Explanation:** - If two or more cases involving substantially identical questions are heard together with common arguments, Law Officer shall be entitled to only one fee as for a single case.

- (c) The Attorney General shall be paid sumptuary allowance of rupees four thousand per month, except during the period of his leave;
- (d) Where a Law Officer is required to perform journeys outside the headquarters in the course of his duties, he shall be paid or reimbursed the actual expenses incurred on travelling and on boarding and lodging; and
- (e) If a Law Officer is called upon to perform any duty other than those referred to in rule 5, such as, acting as Arbitrator or giving opinion after hearing both the sides, one being the Government of India, he shall be paid such fee as may be determined by the Government".

[F.No.26(1)/2014/Judl.]

(Suresh Chandra)

Joint Secretary and Legal Adviser to the Govt. of India



Foot Note: The principal rules were published in the gazette of India, extra ordinary part II, Section 3, Sub-Section (I), dated the 1<sup>st</sup> January, 1987 vide notification NO. GSR 1(E) dated the 1<sup>st</sup> January, 1987 and have been subsequently amended by

- i. GSR No. 379(E) dated the 14<sup>th</sup> April, 1987
- ii. GSR 473 (E) dated 22<sup>nd</sup> June 1993.
- iii. G.S.R. 403 (E) dated 2<sup>nd</sup> June 1999.
- iv. G.S.R 345 (E) dated 10<sup>th</sup> May 2001
- v. G.S.R 106 (E) dated 25<sup>th</sup> February, 2005.
- vi. GSR 723(E) dated 16<sup>th</sup> December, 2005.
- vii. GSR ... (E) dated 18<sup>th</sup> July, 2008.

The Manager,  
Govt. of India Press,  
Mayapuri, Ring Road,  
New Delhi.

Copy forwarded to:-

- i. Shri Mukul Rohatgi, Attorney General for India, N-234-A, Greater Kailash-I, New Delhi-110048
- ii. Shri Ranjit Kumar, Solicitor General of India, A-47, Kailash Colony, New Delhi-110048.
- iii. All Additional Solicitors General of India, as per list.
- iv. PS to ML&J/PS to MSL&J/PS to Law Secretary/PS to Legislative Secretary.
- v. All Ministries/Departments to the Govt. of India.
- vi. Department of Expenditure, Ministry of Finance, New Delhi w.r.t. their ID Note No.9 (11)/99-E.II (B) dated 02.03.2015.
- vii. All Officers and Sections in the Deptt. of Legal Affairs
- viii. Central Agency Section, Litigation (High Court/Lower Court) Sections with 5 s/copies
- ix. Branch Secretariats Mumbai/Kolkata/Chennai/Bangalore.
- x. Guard file/Judicial Section with 5 s/copies.

(Suresh Chandra)

Joint Secretary & Legal Adviser to the Govt. of India

[F No.26(1)/2014/Judl ]





F. No. 21(4)/99-Judl.  
Government of India  
Ministry of Law, Justice and Co. Affairs  
Department of Legal Affairs  
\*\*\*\*\*

New Delhi, the 24<sup>th</sup> September, 1999

**OFFICE MEMORANDUM**

**Subject:** Revision of terms and conditions for engagement of Panel 'A', 'B', 'C' and 'D' Counsel in Supreme Court.

The question of revision of terms and conditions of engagement of Panel Counsel of Supreme Court was under consideration of the Government of India and it has now been decided to revise the terms and conditions of engagement of Panel 'A' Counsel as per scheme given in Annexure-I and those of Panel 'B', 'C' and 'D' Counsel as per scheme given in Annexure-II.

2. The revised terms will be effective from 1<sup>st</sup> October, 1999.
3. The Counsel will be paid fee at the old rates in respect of their appearance in the Supreme Court etc. and other work done by them prior to 1<sup>st</sup> October, 1999 and at the revised rates in respect of the work done by them on/after 1<sup>st</sup> October, 1999.

(Krishna Kumar)  
Joint Secretary & Legal Adviser

**To: -**

1. All Ministries/Departments to the Government of India.
2. All Panel A, B, C & D Counsel of Supreme Court through Central Agency Section, Department of Legal Affairs, New Delhi.
3. Ministry of Finance, Department of Expenditure, New Delhi w.r.t. their U.O. No. 9(11)/99-E.II(B) dated 6.9.1999.
4. All Government Advocates/Officers of Central Agency Section.
5. Legal Adviser, Railway Board, New Delhi (with 5 s/copies).
6. Joint Secretary (Legal), Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
7. CBDT, Department of Revenue, Ministry of Finance, New Delhi (with 5 s/copies).
8. Central Agency Section (with 10 spare copies)/Fee Bill Unit.





9. Litigation (HC) Section, Cash/Admn.I(LA)/Admn.II.(LA)/Admn.III(LA) / Admn.IV(LA)/B&A/Advice A/B/C Section/Litigation (LC) Section (with 5 s/copies)
10. Pay and Accounts Officer, D/Legal Affairs, New Delhi.
11. Hindi Section for Hindi translation.
12. Guard File/Judicial Section (with 500 copies).

(S.K. Kalra)  
Section Officer



MINISTRY OF LAW, JUSTICE AND CO. AFFAIRS  
DEPARTMENT OF LEGAL AFFAIRS  
(JUDICIAL SECTION)

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**REVISED TERMS AND CONDITIONS FOR THE ENGAGEMENT OF  
PANEL 'A' COUNSEL ON BEHALF OF THE GOVERNMENT OF INDIA  
AND THE PARTICIPATING UTS IN THE CENTRAL AGENCY  
SECTION IN RESPECT OF ALL CASES BEING HANDLED BY THE  
CENTRAL AGENCY SECTION IN THE SUPREME COURT OF INDIA  
EFFECTIVE FROM 01.10.1999.**

**I. SCOPE OF TERMS AND CONDITIONS**

The terms will be operative in respect of all the cases on behalf of the Government of India and the participating UTs. In the Central Agency Scheme entrusted to the Counsel in the Supreme Court of India.

**II. DEFINITIONS**

For the purpose of this Scheme, the expressions:

- (a) 'Counsel' will mean and includes the Panel 'A' Counsel;
- (b) 'Government of India' means and includes the Government of India and also the Government of a Union Territory;
- (c) 'Law Officer' means and includes the Attorney General for India, the Solicitor-General of India and Additional Solicitors-General of India.

**III. TERM OF ENGAGEMENT**

1. Engagement: - The term of engagement of the Counsel would be for a period of three years from the date of engagement or until further orders whichever is earlier. The term may be extended at the discretion of the Government of India.

2. Termination: The engagement of the Counsel would be terminable at any time without assigning any reason.

**V. HEADQUARTERS OF THE COUNSEL**

Headquarters at New Delhi/Delhi: - The Counsel shall locate his Headquarters during the period of his engagement at New Delhi/Delhi.

**V. DUTIES**

The Counsel shall:

- (i) appear in the Supreme Court of India in the cases marked to him;
- (ii) if so required, appear in the High Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires, Judicial or quasi-judicial authorities, etc. at/ outside the Headquarters;
- (iii) render all assistance to the Law Officers, Advocate General of the State Government, Special Counsel, if required to do so, who may be engaged in a particular case before the Supreme Court, High Court, Tribunal, Commission of Inquiry, before the Arbitrator/Umpires, etc.;
- (iv) keep the Incharge of the Central Agency Section informed of the important developments in the case from time to time, particularly with regard to settling of drafts, filing of papers, dates of hearing of the case, supplying copies of judgements etc.;
- (v) perform such other duties of a legal nature which may be assigned to him by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs from time to time.

#### VI. FEE PAYABLE TO THE COUNSEL

1. The fees for appearance and other work payable to the Counsel in the Supreme Court of India would be as follows: -

- |       |   |                            |
|-------|---|----------------------------|
| (i)   | All regular appeals and defended writ petitions(for final hearing)  | Rs.4500/- per case per day |
| (ii)  | All defended admission matters (SLP/TP and writ petitions and other miscellaneous matters for admission). | Rs.3000 per day per case   |
| (iii) | Settling of pleadings.  | Rs.1800/- per case         |
| (iv)  | Appearance in miscellaneous applications  | Rs.1500/- per case         |
| (v)   | Conference  | Rs. 300/- per conference   |

Subject to the following: -

- (i) that for settling pleading one conference will be permissible;
- (ii) that in respect of hearing of writ matters, suits, appeals and SLPs, etc., maximum of three such conferences will be permissible.

Explanation: - 1. For settling pleadings in the cases in the High Courts or Tribunals/Commissions of Inquiry/Arbitrators/Umpires or





judicial or Quasi-Judicial Authorities, the Counsel shall be entitled to the same fee as mentioned above.

2. When the Counsel does not argue the case himself but only assists the Law Officer is jointly briefed with a Law Officer, Advocate General of the State Government or other Special or other Panel 'A' Counsel, he will be entitled to the same fees as is payable to him deeming that he has appeared and argued the case himself.

#### VII. OUT OF HEADQUARTERS

1. If the Counsel is required to go out of the Headquarters in connection with litigation, on behalf of the Government of India e.g. for conference with the Law Officer/ Special Panel Counsel, for appearance in a Court outside the headquarters, he will be entitled to a daily fee of Rs.4500/- for the days of his absence from the Headquarters, including the day of departure, intervening holidays and arrival back at the Headquarters, but no fees will be payable for the day of departure if he leaves the Headquarters after Court hours or for the day of arrival if he arrives at the Headquarters before the Court hours.

2. Travel/Hotel expenses: - In addition to the daily fees, the Counsel will also be entitled to travel expenses for travel by air (economy class) or first class by train, road, mileage for the journey from his Headquarters to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay out of Headquarters and vice-versa at the rates admissible to Class I Officers of the Central Government. He will also be paid a lump sum amount of Rs.600/- as conveyance charges for performing local journey while outside the Headquarters. He will also be entitled to actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

#### VIII. CLERKAGE

The Counsel will not be entitled to any clerkage on the amount of fee payable to him.

#### IX. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS

1. A Counsel will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Government of India.

2. A Counsel shall not advise any party in or accept any case against the Government of India or the Public Sector Undertaking in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the Government of India or the Public Sector Undertakings.



3. If the Counsel happens to be a partner of a firm of lawyers or solicitors it will be incumbent on the firm not to take up any case against the Government of India in the Supreme Court of India or any case arising out of those cases, e.g. appeals and revisions.

## X. GENERAL

1. The aforesaid terms of this Scheme will have the following meaning: -

- (a) Effective Hearing: Effective Hearing means a hearing in which either one or both the parties involved in a case are heard by the court on the facts or Law of the case. If the case is mentioned by the other side and adjourned or when only directions are given or only judgement is delivered by the court, the same would not constitute an effective hearing and no fee will be payable to the Senior Counsel.
- (b) Uncontested Cases: All suits and appeals are deemed to be 'uncontested', if these are withdrawn by the petitioner/appellant or dismissed in limine at the admission stage or otherwise decided by the Court ex-parte before the final hearing. No Writ Petition/Review Petition (including any interlocutory application connected therewith) will be considered as 'uncontested' if it is decided by the Court on preliminary legal objections or is withdrawn by the petitioner/appellant at or during any stage of the final hearing in the presence of the Government Counsel or is withdrawn by the Government at the time of its admission.
- (c) Identical Cases: Identical cases means two or more cases in which substantially identical questions of law or facts are involved and where the main difference is in the names, addresses of the parties concerned, amount of money involved, etc. and/or where common or identical judgements are delivered irrespective of the fact that all the cases are heard together or not.

2. In all cases, effective appearance/hearing is necessary for the Counsel to claim fee.

3. No fee will be payable to the Counsel if the case is not called out or if called out is adjourned by the Court without hearing or adjourned at the request of either of the parties.

4. No fee will be admissible for preparation but the Government may consider payment of a separate fee for preparation in special cases involving arduous work.

5. If the Counsel appears at the instance of the Union of India for parties other than the Union of India whose case is not inconsistent with that of the Union of India, he will be entitled to only one set of fee.



6. SLP/petitions of appeal arising from one common judgement or order will be together considered as one case, if they are heard together.

7. Two or more Special Leave Petitions/petitions of appeal/writ Petitions of substantially identical questions of Law or facts are involved in or arise out of a common judgement or order, any one of such cases will be treated as main case and the others as connected cases.

8. The fee to the Counsel will be paid by the Central Agency Section on presentation of duly signed pre-receipted stamped bill in triplicate and on submission of a copy of pleading settled, if it is a settling of pleading, and submission of minutes or gist of proceedings on the docket or on the body of brief, if it is brief for hearing. The Counsel shall submit his fee bill within three months from the date on which the fee has accrued.

XI. In the event of any doubt or difference regarding the fees, the fees determined by the Secretary, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, shall be final and binding. He may, by an order in writing, relax any of the aforesaid terms and conditions.

**(Krishna Kumar)**  
**Joint Secretary & Legal Adviser to the Government of India**  
**F. No. 21(4)/99-Judl.**

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**ANNEXURE-II**

F.No.21(4)/99-Judl.  
Government of India  
Ministry of Law, Justice and Company Affairs  
Department of Legal Affairs  
Judicial Section  
\*\*\*\*\*

**REVISED TERMS AND CONDITIONS FOR THE ENGAGEMENT OF  
PANEL 'B', 'C' AND 'D' DRAFTING COUNSELS ON BEHALF OF THE  
GOVERNMENT OF INDIA AND THE PARTICIPATING Uts IN THE  
CENTRAL AGENCY SCHEME IN ALL CASES BEING HANDLED BY  
THE CENTRAL AGENCY SECTION OM THE SUPREME COURT OF  
INDIA EFFECTIVE FROM 01.10.1999.**

**I. SCOPE OF TERMS AND CONDITIONS**

The terms will be operative in respect of all the cases on behalf of the Government of India and the participating UTs in the Central Agency Scheme as may be entrusted to the Counsel in the Supreme Court of India.

**II. DEFINITIONS**

For the purpose of this Scheme, the expressions;

- (a) 'Counsel' will mean and include the B, C and D Panel Counsel;
- (b) 'Government of India' means and includes the Government of India and also the Government of a Union Territory;
- (c) 'Law Officer' means and includes the Attorney General for India, the Solicitor-General of India and Additional Solicitors-General of India.

**III. TERM OF ENGAGEMENT**

1. **Engagement:** The term of engagement of the Counsel would be for a period of three years from the date of engagement or until further orders whichever is earlier. The term may be extended at the discretion of the Government of India.

2. **Termination:** The engagement of the Counsel would be terminable at any time without assigning any reason.

IV. **Headquarters at New Delhi/Delhi:** - The Counsel shall locate his Headquarters during the period of his engagement at New Delhi/Delhi.



## V. DUTIES

The Counsel shall:

- (i) appear in the Supreme Court of India in the cases marked to him;
- (ii) if so required, appear in High Courts, Tribunals, Commissions of Inquiry, before the Arbitrators/Umpires, Judicial or quasi-judicial authorities, etc. at/ or outside the Headquarters.
- (iii) render all assistance to the Law Officers, Advocate General of the State Government, Special or Senior Counsel, if required to do so, who may be engaged in a particular case before the Supreme Court, High Court, Tribunals, Commissions of Inquiry, before the Arbitrator/Umpire etc.;
- (vi) keep the Central Agency Section informed of the important developments in the case from time to time, particularly with regard to dates of hearing of the case, furnishing information as to proceedings of the Court, etc.;
- (vii) perform such other duties of a legal nature which may be assigned to him by the Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, from time to time.

## VI. FEE PAYABLE TO THE COUNSEL

1. The fees for appearance and other work payable to the Counsel in the Supreme Court of India would be as follows: -

- |       |   |                            |
|-------|---|----------------------------|
| (i)   | All regular appeals and defended writ petitions(for final hearing).   | Rs.3000/- per case per day |
| (ii)  | All defended admission matters (SLP/TP and writ petitions) and other miscellaneous matters for admission.   | Rs.1500/- per day per case |
| (iii) | Drafting SLP/Counter Affidavit/ Rejoinder, etc.   | Rs.1050/- per case         |
| (iv)  | Drawing written submissions   | Rs.1100/- per case         |
| (v)   | Drafting or appearance in Misc. applications (including mentioning of the case/caveat/clearance/obtaining the number and taking date for hearing) | Rs. 900/- per case         |



("Explanation-I:- If substantially identical SLP/Petitions of Appeal/Counter Affidavits including stay applications are drafted in connected cases, only one drafting fee will be payable in the main case and no separate drafting fee will be payable in connected cases").

("Explanation-II: For drawing pleadings, including affidavits and statements in the cases in the High Courts or Tribunals/Commissions of Inquiry/Arbitrators/Umpires or Judicial or Quasi-Judicial Authorities, a Junior Counsel shall be entitled to the same fee as mentioned above.

2. When the Counsel does not argue the case himself but only assists the Law Officers, Advocate General of the State Government or other Special or Panel 'A' Counsel, he will be entitled to the same fees as is payable to him deeming that he has appeared and argued the case himself").

#### **VII. OUT OF HEADQUARTERS:**

1. If the Counsel is required to go out of the Headquarters in connection with Central Government litigation, e.g. for conference with the Law Officers/ Special Panel 'A' Counsel, appearance in a Court outside the headquarters, he will be entitled to a daily fee of Rs.3300/- for the days of his absence from the Headquarters, including the days of departure, intervening holidays and arrival back at the Headquarters, but no fee will be payable for the days of departure if he leaves the Headquarters after Court hours or for the day of arrival if he arrives at the Headquarters before the Court hours.

2. Travel/Hotel expenses: In addition to the daily fee, the Counsel will also be entitled to travel expenses for travel by air (economy class) or first class by train, road mileage for the journey from his Headquarters to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay out of Headquarters and vice-versa at the rates admissible to Class I Officers of the Central Government. He will also be paid a lump sum amount of Rs.600/- as conveyance charges for performing local journey while outside the Headquarters. He will also be entitled to actual expenses for stay in Hotel, subject to a maximum of Rs.600/- per day.

#### **VIII. CLERKAGE**

The Counsel will not be entitled to any clerkage on the amount of fee payable to him.

#### **IX. RIGHT TO PRIVATE PRACTICE AND RESTRICTIONS:**



1. A Counsel will have the right to private practice which should not, however, interfere with the efficient discharge of his duties as a Counsel for the Government of India.
2. A Counsel shall not advise any party in or accept any case against the Government of India or the Public Sector Undertaking in which he has appeared or is likely to be called upon to appear for or advise or which is likely to affect or lead to litigation against the Government of India or the Public Sector Undertakings.
3. If the Counsel happens to be a partner of a firm of lawyers or solicitors, it will be incumbent on the firm not to take up any case against the Government of India in the Supreme Court of India or any case arising out of those cases e.g. appeals and revisions.

**X. GENERAL:**

1. The aforesaid terms of this Scheme will have the following meaning: -
  - (a) Effective Hearing: Effective Hearing means a hearing in which either one or both the parties involved in a case are heard by the Court on facts or law of the case. If the case is mentioned by the other side and adjourned or only when directions are given or only judgement is delivered by the Court, the same would not constitute an effective hearing and no fee will be payable to the Junior Counsel.
  - (b) Uncontested Cases: All suits and appeals are deemed to be 'uncontested', if these are withdrawn by the plaintiff/appellant or dismissed *in limine* at the admission stage or otherwise decided by the Court ex-parte before the final hearing. No Writ Petition/Revision Petition (including any interlocutory application connected therewith) will be considered as 'uncontested' if it is decided by the Court on preliminary legal objections or is withdrawn by the petitioner/appellant at or during any stage of the 'final hearing' in the presence of the Government Counsel or is withdrawn by the Government at the time of its admission.
  - (c) Identical Cases: 'Identical Cases' means two or more cases in which substantially identical questions of law or facts are involved and where the main difference is in the names, addresses of the parties concerned, amount of money involved etc. and/or where the common or identical judgements are delivered irrespective of the fact whether all the cases are heard together or not.
2. In all cases, effective appearance/hearing is necessary for the Counsel to claim fee.





3. No fee will be payable to the Counsel if the case is not called out or if called out but adjourned by the Court itself without hearing or adjourned at the request of either of the parties.

4. No fee will be admissible for preparation but the Government may consider payment of a separate fee for preparation in special cases involving arduous work.

5. If the Counsel appears at the instance of the Union of India for parties other than the Union of India whose case is not inconsistent with that of the Union of India, he will be entitled to only one set of fee.

6. SLP/petition of appeal arising from one common judgement or order will be together considered as one case, if they are heard together.

7. When Two or more Special Leave Petitions of appeal i.e. Civil Appeal /Writ Petitions of substantially identical questions of Law or facts are involved or arising out of common judgement or order, any one of such cases will be treated as main case and the others as connected cases and the fee for drafting in such cases will be determined by the Central Agency Section, (Department of Legal Affairs) keeping in view the volume of work involved in it.

8. The fee to the Panel B, C and D Counsel will be paid by the Central Agency Section on presentation of duly signed pre-receipted stamped bill in triplicate on submission of a copy of document drafted, if it is a drafting of a document/pleading, and submission of minutes or gist of proceedings, on the docket or on the body of brief, if it is brief for hearing. The Counsel shall submit his fee bill along with the brief within three months from the date on which the fee has accrued.

9. In the event of any doubt or difference regarding the fees, the fees determined by the Secretary, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, shall be final and binding. He may, by an order in writing, relax any of the provisions of the aforementioned terms and conditions.

**(Krishna Kumar)**  
**Joint Secretary & Legal Adviser to the Government of India**  
**F. No. 21(4)/99-Judl.**

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No. 27(25)/2011-Judl.  
Government of India  
Ministry of Law & Justice  
Department of Legal Affairs  
Judicial Section

\*\*\*\*\*

New Delhi, the 1<sup>st</sup> September, 2011

**OFFICE MEMORANDUM**

Sub: Revision of fee payable to Standing Government Counsel and Additional Standing Government Counsel in the District and Subordinate Courts.

In partial modification to this Department's OM no. 27(11)/1999-Judl. Dated 24.09.1999, the undersigned is directed to convey the approval of the Competent Authority for revision of fee structures, **applicable to Standing Government Counsel and Additional Standing Government Counsel in the District and Subordinate Courts with immediate effect as per following rates:-**

Sl.No.	Item of work	Revised fee
1.	Retainer fee for Standing Govt. Counsel	Rs. 4000 per month
2.	Fee for effective hearing	Rs. 1200 per day
3.	Fee for non-effective hearing	Rs. 400 per day (not more than 5 such hearings in a case)
4.	Fee for drafting Written Statement, Grounds of Appeal etc.	Rs. 1,000 per pleading
5.	Fee for drafting other pleadings of misc. nature	Rs. 400 per pleading
6.	Fee per Conference	Rs. 600(subject to maximum of 5 such conferences in a case / group of identical cases)
7.	Daily fee for out of Headquarters	Rs. 1,800 per day
8.	Conveyance charges for local journey outside Headquarters	Rs. 600 (lump sum)
9.	Expenses for stay in hotels	Rs. 1,200 per day
10.	Clerkage	@ 10% of total fee excluding miscellaneous and out of pocket expenses (maximum Rs. 3500 in a case)
11.	Fee for identical cases	Full fee in the 1 <sup>st</sup> case and Rs. 500 in per suit for connected cases (max. 3 cases)
12.	Miscellaneous and out of pocket expenses	As per actual to the satisfaction of the administrative Department.

Contd...





-02-  
(No. 27(25)/2011-Judl.)

2. All other terms and conditions of engagement of Standing Government Counsel and Additional Standing Government Counsel in the District and Subordinate Courts in the pre-revised OM no. 27(11)/1999-Judl. Dated 24.09.1999 shall continue to remain applicable unless specifically revoked/revised.
3. The revision of fee structures are issued with the approval of the Ministry of Finance, Department of Expenditure's ID No. 9(11)/99-E.II dated 18<sup>th</sup> July, 2011.

(M.A.Khan Yusufi)

Joint Secretary and Legal Adviser

Ph:23385383

**Copy to:**

1. All Ministries/Departments to the Government of India.
2. All Standing Government Counsel and Additional Standing Government Counsel before various District and Subordinate Courts as per the list.
3. Department of Expenditure, Ministry of Finance, New Delhi w.r.t. their ID Note No. 9(11)/99-E.II dated 18<sup>th</sup> July, 2011.
4. Incharge, Branch Secretariats Mumbai/Kolkata/Chennai/Bangalore.
5. Incharge, Central Agency Section, Litigation (HC) Section, Litigation Lower Courts Section
6. Cash LA Section for necessary action w.r.t enhanced retainer fee.
7. All Sections of Department of Legal Affairs.
8. Pay and Accounts Officer, Deptt of Legal Affairs, New Delhi.
9. NIC Cell with the request to upload the same in the website of this Deptt.
10. O.L. Section for Hindi Translation.

(Kishore Kumar)

Section Officer



F.No.33(1)/2000-Judl.  
Government of India  
Ministry of Law, Justice & Co. Affairs  
Department of Legal Affairs  
Judicial Section

\*\*\*\*\*

New Delhi, the 11th September, 2000

OFFICE MEMORANDUM

Subject : Revision of fee payable to Senior Counsel/Central Government Standing Counsel in various High Courts - Clarifications reg.

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The undersigned is directed to refer to this Department's O.M. No. 24(2)/99-Judl., O.M. No.26(1)/99-Judl., O.M. No.26(2)/99-Judl. and O.M. No.25(3)/99-Judl., all dated 24th September, 1999 regarding revision of fee payable to Senior Counsel/Central Government Standing Counsel in Delhi High Court, various High Courts, Karnataka High Court and Madras High Court respectively and to state that certain doubts have been raised by some departments. The doubts have been examined by the Government and the following decisions have been taken :-

1. Proforma Party :-

(i) In a case where Union of India is only a proforma party and no instructions from the concerned department are given to the Counsel and the Counsel continues to appear in the matter, the Counsel is entitled to 1/3rd fee. Even if such a case is disposed of at admission stage, the Counsel is entitled to 1/3rd fee.

(ii) In such cases where the Administrative Department informs the Counsel/concerned Litigation Section not to contest the case on their behalf, then the Counsel is not entitled to any fee.

2. Cases disposed of at the admission stage (where the Department is one of the main respondents) :-

(i) Where the case is disposed of or dismissed at the admission stage and the Department has no notice of the case and no instructions are given to the Counsel, the Counsel may be paid 1/3rd fee.

(ii) In such a case where the Department has notice of the case and instructions are given to the Counsel and/or some reply is also filed and the Counsel gets the case disposed of/dismissed at the admission stage, the Counsel may be paid full fee.





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3. In identical cases where more than 10 cases are involved :-

Where more than ten identical cases are involved, groups of ten cases each may be made treating one case in each group as the main case and the other nine cases in each group as connected cases and pay the fee to the Counsel as per term XIII-10 of the terms and conditions of engagement of Counsel of Delhi High Court and other similar terms of engagement of Counsel in various High Courts.

4. Misc./out of pocket expenses :-

In para 2(d) of this Department's O.M. Nos.26(1)/99-Judl., 24(2)/99-Judl. and 26(2)/99-Judl. dated 24th September, 1999, it is clearly stated that misc./out of pocket expenses will be borne by the Ministry/Department on whose behalf the Counsel conducts the case in the concerned Court. As regards ceiling, it may be stated that the Counsel is to be reimbursed the actual expenses incurred. Such expenses are to be paid to the Counsel by the concerned Department to their own satisfaction. For this purpose, if need be, the Counsel can be requested to furnish the details of the misc. expenses incurred. The other course could be that the misc. expenses are directly borne by the concerned Department so that the necessity to reimburse the misc. expenses to government Counsel does not arise. The misc. expenses are in addition to the clerkage.

5. Refresher fee :-

The terms and conditions provide that if in a case, hearing on a Writ Petition goes on for more than three days, an additional fee of Rs.375/450.00 per day (not exceeding three in number) may be paid by way of refresher fee. From the above wording, it follows that refresher fee is to be paid when hearing on a case is continuously held for more than three consecutive days. In other words, if hearings in the case are held on different dates, the Counsel is not entitled to refresher fee. To put it more clearly, it may be stated that if hearing in a case is held continuously for four days, the Counsel is entitled to one day's refresher fee, if the hearing is held continuously for five days, the Counsel is

.....3/-





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entitled to two days' refresher fee, if the hearing in a case goes on for six days continuously, the Counsel is entitled to three days' refresher fee.

6. Misc. Applications :-

Terms and conditions provide for a fee of Rs.300/- per petition in Civil Misc. Petitions, Forma Pauperis, Transfer Petitions and other Civil Misc. Petitions/ Applications not otherwise provided for. It is clarified that for drafting and conducting Misc. Applications e.g. stay application, application for exemption from filing certified copies, condonation of delay, early hearing and urgent application, the Counsel is entitled to Rs.300/- per application.

7. Daily fee for going out of headquarters and appearance fee :-

Sometimes doubts are raised as to whether daily fee is in addition to the appearance fee or it includes appearance fee. It is, hereby, clarified that the daily fee is to be paid in addition to the appearance fee.

8. Regulation fees :-

Terms and conditions of engagement of Counsel in various High Courts provide that in original suits and Civil Appeals from decrees in original suits and proceedings (except under Articles 226 and 227 of the Constitution). 2nd Appeal, LPA (other than those mentioned in Item (i) of the schedule of fee) and Land Acquisition Appeals in the High Courts, the Counsel will be paid regulation fee. It is, hereby, clarified that the regulation fee is the fee prescribed in the concerned High Court Rules for such items.

In respect of Senior Panel Counsel :-

9. Effective and non-effective hearings :-

Though the terms and conditions define effective and non-effective hearings, these may further be clarified as under :-

If the matter is called in its turn and the Counsel is present to represent the Department and the Court listens to the submissions made by him, or by other

.....4/-





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side or by both and if thereafter the Court adjourns the matter, that will be an effective hearing because the case in any event is to be adjourned after hearing from time to time till it is finally disposed of. Further the effective hearing should not be interpreted to mean final hearing because final hearing takes place only once and not from time to time.

If a case is mentioned and adjourned (which means the Counsel has not to wait till the matter is called in its turn) and if the Court gives only directions and if the Court delivers judgement, they will not be effective hearings.

Ministry of Environment and Forests, etc. are requested to bring these decisions/clarifications to the notice of all concerned.

( D.R. MEENA )

Joint Secretary & Legal Adviser to the Government of India

Copy to :-

1. All Ministries/Departments to the Government of India.
2. All Senior C.G.S.C./Additional C.G.S.C. in Delhi High Court and various High Courts.
3. All Senior C.G.S.C./Additional C.G.S.C. in Karnataka High Court/Madras High Court.
4. All Senior C.G.S.C./Additional C.G.S.C. in CAT, Delhi.
5. Incharge, Branch Secretariats - Mumbai, Calcutta, Bangalore & Madras.
6. Incharge, Litigation (HC) Section.
7. Incharge, Central Agency Section.
8. Central Agency Section, Litigation (HC) Section.
9. Guard File, Judicial Section (with 10 s/copies).
10. OL Section for Hindi translation.

( D.R. MEENA )

Joint Secretary & Legal Adviser to the Government of India



## Legal Framework Document of Employees' State Insurance Corporation

डा० नितेन चन्द्र, भा.प्र.से.

सचिव

Dr. Niten Chandra, IAS  
Secretary



सत्यमेव जयते

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आज़ादी का  
अमृत महोत्सव

विधि कार्य विभाग  
विधि और न्याय मंत्रालय  
भारत सरकार

DEPARTMENT OF LEGAL AFFAIRS  
MINISTRY OF LAW & JUSTICE  
GOVERNMENT OF INDIA

D.O. LA-85014/2/2023-LIMBS

13<sup>th</sup> December 2023

Dear Secretary,

As you are aware, the web portal, 'LIMBS' developed by the Department of Legal Affairs in association with NIC contains the details of litigation pertaining to the Union of India (UoI) pending before various Courts/Tribunals in the country. Details of more than one million cases involving UoI is available on the portal. The continuous upgrading of the LIMBS portal and addition of new features in it, along with API linkages with various Tribunals, District Courts and the High Courts and most recently with the Supreme Court's data base has enhanced its utility for effective monitoring of the litigation at all levels.

2. The portal should be used by your Ministry/Department to effectively monitor the cases, in which your Ministry/Department is made a party. The Department has the option to set the priority of pending cases by choosing **high, medium and low priority button**. The new fields of '**action points**' to be undertaken by the Ministry/Department and the '**officer responsible**' for the same helps in monitoring of cases and timely compliance of the order or direction of any Court or Tribunal.

3. In order to strengthen litigation management, you may issue suitable instructions to the users of LIMBS of your Ministry/Department for utilizing the new features available on the portal and updating the current status of the Court cases/Arbitration/AMRCD/AMRD matters at the earliest. A statement showing status of Ministry wise cases and usage of LIMBS is enclosed for your reference. The technical team of LIMBS [Shri Himanshu Saraswat (Mobile-8800279152) and Ms. Monika Kaushik (Mobile-8510042202) email - legis@nic.in] is available to assist the users of your Ministry/Department, in case of any difficulty.

With regards,

Yours sincerely,

*N. Chandra*  
(Dr. Niten Chandra)

Encl: as above

Secretaries to the Government of India as per list attached

कमरा नं. 404, चौथी मंजिल, 'ए' विंग, शास्त्री भवन, डा० राजेन्द्र प्रसाद रोड, नई दिल्ली-110 001  
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Tel. : +91-11-23384205, 23387908, Fax : +91-11-23384403, E-mail : secylaw-dla@nic.in



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क.रा.बी.नि.  
E S I C

## कर्मचारी राज्य बीमा निगम

Employees' State Insurance Corporation

श्रम एवं रोज़गार मंत्रालय, भारत सरकार

Ministry of Labour & Employment, Government of India

Panchdeep Bhawan, C.I.G. Marg, New Delhi-110 002

Toll Free No.: 1800-11-2526 | Website: [www.esic.gov.in](http://www.esic.gov.in)

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