

PART C.- REMUNERATION

1. Order XVI, Rule 2 of the Civil Procedure Code, requires that the party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into Court such sum of money as appears to the Court to be sufficient to defray the traveling and other expenses of the person summoned in passing to and from the Court in which he is required to attend, and for one day's attendance. Government is exempt from the operation of this rule when applying for a summons for any of its own officers. In the case of witnesses summoned as "experts", the Court is authorized to allow remuneration in addition, for performing any necessary work of an expert character for the purposes of the case.

Payment of expenses by a Party: exception
2. According to Order XVI, Rule 3 of the Code, the sum so paid into Court shall, except in the case of a Government servant who is not entitled to receive such sums, be tendered to the person summoned at the time of serving the summons, if it can be served personally.

Expenses to be paid at the time of service.
3. (i) A Government servant shall not accept any subsistence allowance from the Court.

Expenses of Government Servants.

 (ii) A Government servant who is required to give evidence in a Court situated ^[22][omitted] more than ^[23][8 Kilometers] from his headquarters may accept such actual traveling expenses as the Court may allow provided that he is not in receipt of permanent traveling allowance from Government.
 (iii) A Government servant who is summoned to give evidence in a civil case to which Government is a party or in a Criminal Court may draw traveling allowance from Government as for a journey on tour provided that
 - (a) the facts as to which he is to give evidence have come to his knowledge in the discharge of his public duties,
 - (b) he attaches to his bill a certificate of attendance given by the Court, and
 - (c) he does not accept any payment of his traveling expenses from the Court.
 Any expenses which may be deposited in the Court for this purpose must be credited to Government under head "XXI-Administration of Justice-Miscellaneous Fees and Fines".
 (iv) A Government servant or a Railway employee who is summoned to give evidence in a civil case to which government is not a party, of facts which come to his knowledge in the discharge of his public duties or to produce

official documents before the Court shall, subject to the provisions of rule 49 of Chapter 8-D, High Court Rules and Orders, Vol. II, be allowed by Court traveling expenses as for a journey on tour in accordance with the Traveling Allowance Rules applicable to him.

(v) A Government servant summoned to give evidence in circumstances other than those mentioned in clauses (iii) and (iv) may receive traveling expenses from the Court according to the scale to which he may be entitled by his status.

(vi) In the case of employees of the Central Government or a State Railway or any other Commercial Department of Government, however, sums deposited for diet money will be credited in the Treasury to the credit of the Government concerned, i.e. Central Railway or any other Commercial Department of Government, as the case may be.

The following is the proper head of account under which subsistence allowance etc; of Government servants of Himachal Pradesh and other states etc; should be deposited when they appear as witnesses in the Civil Courts in Punjab:

Serial No.	Classification of Employees	Head to which creditable
1	Employees of States other than Punjab State	S. Remittances Inter State Suspense A/C-A/C withState
2	Employees of Himachal Pradesh Government.	S. Remittance Central, H.P. Government suspense.
3	Employees of Central Government. Under the audit control of AGCR, New Delhi.	S. Remittances. Adjusting A/C between Central and Provincial Government A/C between Civil and Civil A/C between AGCR and Punjab III items adjustable by AGCR.
4	Employees of the Central Government under the audit Control of A.G. Punjab.	To the corresponding receipt head in the Central section of A/C of the Department of the Central Government to which the Government servant belongs.

4. Order XVI, Rule 4, empowers the Court to require a further sum to be paid in for the expenses of a witness, if the sum at first paid is found to be insufficient, or if the witness is detained for more than one day.
5. Order XVI, Rule 2 (3), provides that in fixing the scale of expenses to be allowed to witnesses, Subordinate Courts shall be guided by such rules as may be made by competent authority. The rules passed in connection with the scale of expenses are given in Appendix I to this Chapter.
6. When a summons is sent by a Court in one district for service through a Court in another district the expenses must be remitted by money order at the cost of the party taking out the summons. The practice of sending remittances by postage stamps should never be resorted to. The Court to which a remittance is made should be informed by letter, on the day on which application is made to the post Office for the Money order, and all necessary information should be furnished regarding the person or persons to whom the money is to be paid. The same procedure will apply when a summons issued by one Court in a district has to be served through the process serving agency of another Court within the same district.
7. In all cases in which an officer of Government is summoned to give evidence, the Court should give him a certificate in the prescribed form A given in Appendix II to this Chapter, specifying the dates on which the officer was required to attend and the amount, if any, paid to him by the Court. This certificate will be attached by the officer concerned to any traveling allowance bill which he may submit under the rule quoted above.
8. A process-server who is called upon in ex-parte proceedings to prove service of a summons by affidavit or statement in Court, is not entitled to any subsistence or other allowances for attendance. Such attendance must be regarded as the discharge of one of the ordinary duties of his office.

Further sum for expenses.

Scale of expenses.

Sending expenses by money order.

Court certificate in case of Government servants.

Expenses of process server.

APPENDIX I

The rules contained in this Appendix have been framed by the High Court under Order XVI, rule 2 (3), Civil Procedure Code. They are merely for the guidance of Courts and are not statutory.

I. The annexed scale of daily expenses for each witness or other person summoned to attend in the Civil

Courts of the Punjab is prescribed for general observance. These rates will be allowed not only for the period of actual attendance, but for any reasonable time spent in the journey to and from the place of sitting, the mode of conveyance available being taken into consideration.

2. The Presiding Officer of each Court will exercise his discretion in determining the class of each witness where this may be doubtful; and the remuneration fixed in respect to each class will be understood to be exclusive of the bonafide traveling expenses of the witness.

3. In estimating traveling expenses the amount allowed should cover the actual cost of the journey by the means of conveyance considered by the Court to be suitable to the person summoned with reference to the class under which he falls.

[24] [RATES OF REMUNERATION TO BE PAID TO WITNESSES
ATTENDING THE CIVIL COURTS.

Class I: Eighteen Rupees per diem

All Commissioned Officers of Armed Forces, Distinguished personalities including Members of Parliament, Members of State Legislature and Members of Municipal Corporations, Chairman and Members of Corporate Bodies, Statutory Undertakings and Autonomous Organisations.

All Gazetted Class I and II officers of Central and State Governments, and officers of corresponding or comparable categories in the service of corporate Bodies, Semi-Government Undertakings and other statutory organizations.

Class II : Fourteen Rupees per diem

All non-gazetted Class III officials including ministerial employees of the Central and State Governments and those of comparable or corresponding categories in the employment of Corporate Bodies, Semi-Government Undertakings and other statutory Organisations.

Non-Commissioned and other ranks of the Armed Forces, members of the Panchayat Samaties, Zila Parishads, Municipal Commissioners, Sarpanches and Panches and well-to-do Zamidars and Tradesmen.

Class III : Ten Rupees per diem

All other persons not included in any of the classes.

(Note.- The rates in relation to the attendance of prisoner witnesses and escorts accompanying them, shall be regulated by the rules framed by the State Government under the Prisoners (Attendance in Court) Act, 1955 (Act No. XXXII of 1955).]

4.If in any case the highest rate of remuneration above prescribed appears to be insufficient, the Court may, for reason to be stated in writing, allow such remuneration exceeding ten rupees, but not exceeding fifty rupees per diem, as it may think fit. The discretion thus allowed should be used only in very special cases.

5.Registered Accountants as defined in Rule 12 of the Auditors' Certificate Rules, 1932, attending Civil Courts for giving expert evidence, should be paid fees ranging between Rs. 50 and Rs. 150 according to the professional standing of the witness, for each day spent in attendance or traveling, in addition to expenses for traveling.

Note.—The Auditors' Certificates Rules 1932, are published at page 299 of the Gazette of India, Part I, dated the 26th March, 1932.

For rules regulating applications for and payment of the services of the Government Examiner of Questioned Documents or the Finger Prints Expert at Phillaur, please see Chapter 9 of Volume IV, of High Court Rules and Orders.

APPENDIX II

(FORMS)

A.

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

In the Court of the.....in the District.

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

To be cut out when nothing is paid

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

3. The amount of..... as his diet money has been recovered from the litigants and has been/ will be deposited in the local Treasury/Sub Treasury on (date).....

B

Detailed Statement of Subsistence Allowances and Compensation (apart from allowance for travelling expenses)

paid to Government Servants order of the†.....

....

At.....during the quarter ending.....

.....

19 . for attending as witnesses

in civil cases to which Government as not a party.

1	2	3	4	5	6	7
Date of payment	Court under whose order the payment was made	Name and official designation of witnesses	Amount paid	Nature of subsistence or compensation allowance	Nature of case and names of parties thereto	R E M A R K S
			Rs. np.			

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

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

(1)in cases in which Government servants have to give evidence at a Court, situate not more than ^[25][8 Kilometers] from their headquarters, or in their private capacity actual travelling expenses incurred by them may, when the Court considers it necessary, be paid to them.

(2)A Government servant whose salary does not exceed Rs. 10 per mensem may receive his expenses from the Court.

Here insert the Court or Courts to which the return relates.