

ROLE OF COURT FEES AND COSTS IN CIVIL LITIGATION UNDER CIVIL PROCEDURE CODE

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ABSTRACT

Court fees and costs form an integral part of the civil justice delivery system under the Code of Civil Procedure, 1980 (CPC). They present a dual purpose promoting the enforcement of justice while controlling insignificant and vexatious litigation. This research paper analytically reviews the function, objective, and legislative framework regulating court fees and costs in civil litigation, with specific influence on access to justice. This research review legal provisions such as Section 35¹, 35A, 35B of the Civil Procedure Code, in compliance with the Court fees Act, 1870, to interpret how procedural law demand to balance judicial effectiveness with fairness to claimant.

This paper in addition explores statutory interpretations that have influenced the application of court fees, emphasizing landmark ruling where courts have highlighted that such fees must not become hindrance to justice. Constitutional viewpoint under Article 14 and 21² are examined to evaluate how excessive or unfair court fees may sabotage the right to equality and access to justice. In addition, a comparative review of the cost regimes in the United Kingdom and the United States is contracted to evaluate how different court systems implement litigation costs and funding mechanisms.

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This research paper concludes that while court fees and costs play a necessary regulatory role, their application must remain reasonable, proportionate, and justice-oriented. The paper emphasizes the need for balanced approach that discourages abuse of judicial processes without restricting genuine litigants from seeking legal remedies.

Keywords- Civil Litigation, Court Fees, Costs, CPC, Access To Justice, Litigation Financing, Comparative Law, Case Law.

¹Upendra Baxi, Access to Justice and the Role of Court Fees in India, 27 J. Indian L. Inst. 213 (1985)

²M.P. Jain, Judicial Process and Access to Justice in India, 45 J. Indian L. Inst. 1(2003)

INTRODUCTION

Court fees and costs play an essential role in operating of civil litigation under the Code of Civil Procedure, 1980, (CPC). They deliver not only as a source of income for the state but also act as an administrative mechanism to prevent specious³ and vexatious litigation. In Indian judicial system, judges have undisputedly an extreme workload of cases, with numerous judgements pending for several cases. Nevertheless, this is complicated by the filling of petty and vexatious suits by various individuals. Hence, the enforcement of court fees secure that litigations approaches the judiciary with seriousness and significantly, while the condition relating to costs seek to reimburse the profitable party for costs incurred during litigation.

Jointly, court fees and costs form a fundamental element of procedural justice and furnish to the effective governance of civil justice in India. Under the Code of Civil Procedure, the concept of legal costs is primarily governed by section 35, 35a, 35b, with section 35 handling general costs which is awarded to the winner, section 35A⁴ providing compensatory costs for false claims that is up to rupee 3000, and section 35B imposing costs for causing delays in proceedings like unnecessary adjournments to ensure timely justice.

This act works alongside other litigation like the Suits Valuation Act, 1887. The main objective of this act is revenue collection for the government, not to create technical hurdles for litigants, with state governments issuing rules under its provisions. Though procedural⁵ in nature, these provisions have significant implications for access to justice, fairness in litigation and judicial efficiency. This research paper examines the concept, purpose, legal framework and judicial interpretation of court fees and costs under the Civil Procedure Code, supported by relevant case laws.

RESEARCH QUESTIONS

- What is the theoretical and legal basis of court⁶ fees under the Code of Civil Procedure, 1980, (CPC)?

³Bimal N. Patel, Judicial Reform and Court Administration in India, 5 Indian J.Const. L. 78 (2011).

⁴Bimal N. Patel, Judicial Reform and Court Administration in India, 5 Indian J.Const. L. 78 (2011).

⁵Arghya Sengupta, Judicial Delays and Procedural Reform in India, 10 /Indian J.L. & Tech. 45 (2014).

⁶ Justice R.S. Chauhan, Judicial Accountability and Access to Justice, 52 JILI 321 (2010)

- How do other judicial systems in United Kingdom (U.K) and United State of America (USA) approach costs and litigation funding contrast with India?
- How do court fees impact access to justice and litigation strategy?
- How have Indian courts applied cost proviso to regulate litigation behaviour?

CONCEPT AND PURPOSE OF COURT FEES

Courts fees refer to the pecuniary charges imposed by the government on litigants for commencing or maintaining legal process before a court of law. These courts fees are payable at various phases of litigation, such as at the time of filling a plaint, appeal, written statement⁷, review, or execution proceeding. In India, court fees are primarily administered by the Court Fees Act, 1870, beside with relevant State reforms and legal proviso under the Code of Civil Procedure, 1908 (CPC). The foundation of court fees is decided in the principle that while access to justice is a constitutional right, the enforcement of justice involves settlement by the state. Court fees thus represent a fractional recovery of the costs assumed in maintaining judicial system, including courts, staff, and legal mechanisms. However, court fees are not contemplated to be source of revenue generation but rather a regulatory framework to ensure responsible litigation.

Courts fees depart from taxes in nature. While taxes are enacted for general public purposes, court fees are arraigned in return for specific services issued by the judicial system. This judgment was recognised by the Supreme Court in *Secretary Government of Madras V. P.R. Sriramulu (1996)*, where the Court adhere that court fees are meant to reimburse the State for the services executed in implementing justice and are not charged for revenue generation alone.

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KINDS OF COSTS

The code provides for following types of costs:

1. General Costs (under Section 35 of CPC)⁸- Costs are generally at the courts discretion, with the losing party usually paying the winner. It covers actual, reasonable expenses like lawyer fees, travel, etc., through often nominal.

⁷N.R. Madhava Menon, Strengthening the Justice Delivery System in India, 39 JILI15 (1997)

⁸The Code of Civil Procedure, 1908, SS35, 35A, 35B (India)

2. Miscellaneous Costs (Order XX-A of the CPC)- A modern approach to award actual, realistic costs to encourage deterrent effect. It covers realistic lawyer fees, court fees, and expenses, aiming to make parities bear real costs of delaying tactics.
3. Compensatory Costs (under Section 35A of CPC)-When a claim or defence is found to be false/vexatious to the party's knowledge, and is subsequently disallowed or withdrawn.
4. Costs for causing delay (under Section 35B of CPC)- This cost imposed on the party causing delay and to prevent unnecessary delays and adjournments in proceedings

STATUTORY BASIS OF COURT FEES IN INDIA

The statutory framework for court fees is primarily governed by the Court Fees Act, 1870, which prescribes the manner, quantum, and valuation of court fees payable in civil suits⁹. Although enacted during the colonial period, the Act continues to regulate court fee structures in most Indian states, subject to state amendments.

Under the Code of Civil Procedure, 1908, court fees are indirectly recognised through provisions such as Order VII Rule 11, which empowers¹⁰ courts to reject a plaint if the required court fee is not paid within the prescribed time. Similarly, provisions relating to appeals, execution proceedings, and miscellaneous application also require payment of appropriate court fees.

In *P.M. Ashwathanarayana Setty V. State of Karnataka (1989)*¹¹, the Supreme Court held that the imposition of court fees must have a reasonable correlation of justice and must not be excessive or arbitrary. The Court emphasized that access to justice should not be denied due to oppressive court fee structure.

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PURPOSE OF COURT FEES

The levying of court fees multiple authorized and government purposes, which collectively promote to the productive functioning of the judicial system.

- Management of Vexatious Litigation- One of the essential purposes of the court fees is to deter vexatious, trivial or speculative litigation. By prescribed litigants to bear a nominal

⁹Prashant Bhushan, Judicial Reforms and the Crisis of Delay, 6 Indian J. Const. L. 109 (2012).

¹⁰Marc Galanter, Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change, 9 Law & Soc'yRev. 95(1974).

¹¹P.M. Ashwathanarayana Setty v. State of Karnataka, (1989) 1 SCC 696 (India).

financial burden, the judicial system guarantee that only legitimate disputes are instituted before the courts. This helps reduce unessential litigation and judicial accumulation.

In *Salem Advocate Bar Association V. Union of India* (2005)¹², the Supreme Court highlighted that practical costs and fees are crucial to demoralize abuse of legal proceeding and delay tactics.

- Contribution to administration of justice- Courts fees help compensate the administrative charges involved in running courts, such as rehabilitation, staff salaries, and record administration. Even though court fees do not cover litigation expenses, they partially keep up the functioning of the judiciary delivery system.

The Supreme Courts in Secretary to Government of *Madras V. Zenith Lamps and Electricals Ltd.* (1973)¹³ clarified that court fees should broadly correlate with the cost of services rendered by the state in administering justice.

- Judicial Ethics and Procedural Order- Court fees also deliver an administrative¹⁴ function by guaranteeing procedural discipline. The responsibility to pay court fees at prescribed stages prevents unreasonable delays and ensures compliance with rule of procedure under the Civil Procedural Code (CPC). Uncertainty often results in acquittal of pleadings or dismissal of appeals, strengthening methodical accountability.
- Approach to Justice and Judicial Efficiency- While court fees serve governmental purposes, they must not become obstacles to justice. Indian courts have constantly held that courts fees should not be so unreasonable as to violate Article 14¹⁵ which talks equality before law and Article 21 talks right to life and personal liberty of the Constitution. To justify this concern, reservation for indigent persons under order XXXIII of the Civil Procedure Code allow persons who cannot bestow court fees to take legal action without payment.

JUDICIAL INTERPRETATION OF COURT FEES AND COSTS UNDER CPC

The Judiciary has played a crucial role in influencing the interpretation and enforcement of court fee clauses in India. While the regulation of court fees is essentially governed by the Courts Fees Act, 1870¹⁶, courts have uniformly highlighted that such fees must not become an obstacle to justice. Constitutional interpretation has sought to rescind a balance between disciplinary procedure and the fundamental mandate of access to justice.

¹²Salem Advocate Bar Assn'V. Union of India, (2005) 6 SCC 344 (India)

¹³Secretary to Gov't of Madras v. Zenith Lamps & Elec. Ltd., (1973) 2 SCC 177(India).

¹⁴Saurabh Kumar, Critical Analysis of Provision for "Cost" Under the Civil Procedure Code, 1908 (Mar. 2019)

¹⁵The Constitution of India, arts. 14, 21,39A.

¹⁶Rahul Sodhi, Critical Analysis of Provision for Cost and Limitation Under the Code of Civil Procedure, 6 Int'l J.L. Mgmt. & Hum.(2023).

One of the earliest and most significant interpretations of court fees was laid down in *Secretary to Government of Madras V. Zenith Lamp and Electrical Ltd.* The Supreme Court interpreted that court fees are not taxes charged for generating revenue but fees are imposed for services granted by the judicial system. The Court held that the principle purpose of court fees is governmental in nature and should not result in refusal of justice due to immoderate financial burden. This judgment laid the foundation for viewing court fees as regulatory rather than punitive in character.

In *Mannan Lal V. Chhotka Bibi*¹⁷, the Supreme Court addressed the issue of defective payment of court fees. The Court held that inadequacy of court fees is a competent flaw and does not relinquish a plaint invalid from its commencement. The Court emphasized that procedural rules are meant to encourage justice and not to infringe fundamental rights. This ruling substantiated the principle¹⁸ that procedural law must be enforced with discretion, especially where denial of authority to justice is at stake.

The judiciary has also investigated the relationship between court fees and constitutional safeguard. In *P.M. Ashwathanarayana Setty V. State of Karnataka*, the Supreme Court examined that access to justice is a fundamental principles of the rule of law. The Court held exorbitant court fees which could infringe the doctrine of equality and fairness under Article 14 and 39A of the Constitution. This judgment reasserted that economic obstacles should not prohibit individuals from pleading legal remedies. Moreover, in *Seth Nand Lal V. State of Haryana*¹⁹, the Supreme Court confirmed the constitutional validity of court fee regulation but highlighted that such fees must remain reasonable and commensurate. The Court acknowledged that State's authority to levy court fees but cautioned against measures that may effectively deny justice to the common citizen.

The judiciary has also clarified the discretionary power of courts in matters concerning court fees. In *Khatri Hostels Pvt. Ltd. V. Union of India*²⁰, the Supreme Court reaffirmed that systematic requirements emphasize to court fees should not be interpreted narrowly when

¹⁷Mannan Lal v. Chhotka Bibi, AIR 1971 SC1374 (India)

¹⁸Seth Nand Lal v. State of Haryana, (1980)4 SCC 163 (India)

¹⁹S.P. Sathe, Judicial Activism: The Indian Experience, 6 Wash. U. J.&Poly' 29 (2001)

²⁰Khatri Hotels (P) Ltd. v. Union of India,(2011) 9 SCC 126 (India)

they hinder substantial justice. The Court highlighted that courts must enact a fair-minded approach rather than a professional one.

Jointly, these judicial judgements emphasize that the interpretation of court fee statute has evolved in favour of procedural fairness, availability²¹, and productivity in civil litigation. The judicial has consistency balanced administrative necessity with constitutional principles, ensuring that court fees do not become instrument plays a vital role in harmonizing procedural law within the border objective of justice under the Indian legal system.

Table 1: **Key Provisions relating to Courts Fees and Costs under CPC**

Provision	Subject Matter	Function
Section 35 CPC	It covers pecuniary ²² allowances made to the successful party for their expenses.	To act as a deterrent, promote judicial efficiency, and compensate the successful party.
Section 35A CPC	Imposing cost when a party raises a claim ²³ that is false or vexatious to their knowledge.	By imposing a monetary penalty, it discourages litigants from misusing the judicial system and also reduce the burden of frivolous cases on the courts.
Section 35B ²⁴ CPC	When the party obtains an adjournment or fails to take a required step under the Code.	By imposing expenses to the default party to reimburse the other party.

²¹Juned Akhter, [Title of the Article],Latest laws (Jan. 14, 2019) (author was a 2d-year student at Dr. Ram Manohar Lohia National Law. Univ., Lucknow),

²²Sanjay Jain, Court Fees and Access to Justice in India: A Constitutional Perspective, 10 Indian J. Const. L. 145(2016).

²³Ruma Pal, Judicial Accountability and Access to Justice, 8 SCC (J) 1 (2004)

²⁴B.B. Pande, Access to Justice in India. Myth or Reality, 42 J. Indian L. Inst. 1(2000).

Order VII Rule 11 CPC	When the plaintiff fails ²⁵ to submit required copies or fails to correct the valuation within the fixed time.	To prevent the court's time from being wasted by lawsuits that are legally defective.
Court Fees Act, 1870	It prescribes fees for different suits and applies to various documents such as appeals, plaint, written statement.	It discourages unnecessary litigation, collects revenue for the government and focuses on uniformity.

COMPARATIVE STUDY AND INTERNATIONAL PERSPECTIVE

In the United Kingdom, civil litigation generally follows the “English rule”²⁶, where the loser pays the winner’s costs, including attorney’s fees and court fees (subject to judicial discretion and case type). This rule aims to discourage frivolous litigation by making unsuccessful litigants bear both sides’ costs, thereby incentivizing settlement and through case assessment. England also employs conditional fee agreements, “no win, no fee”, where lawyers take cases with the understanding that payment depends on success (through success fees are capped) and third party funding arrangements are recognised and evolving under light regulation.

In contrast, the United States follows the American rule meaning each party typically pays its own attorney’s fees and litigation costs, regardless²⁷ of outcome, unless a statute or contract provides otherwise. This can lower deterrence for meritless cases but also lowers risk for plaintiffs pursuing legitimate grievances without fear of a large adverse cost-award. The American Rule reflects a policy choice to balance access to justice with cost mitigation, and many cases worth pursuing might not be viable under a strict “loser pays” system.

In India, the CPC generally follows a hybrid approach. The principle that “costs follow the event” is recognised: the unsuccessful party may be ordered to pay costs to the successful one, but in practice cost awards are often nominal and do not cover actual attorney fees. Courts exercise broad discretion, and there is no structured statutory definition of costs

²⁵The Code of Civil Procedure, 1908, SS35, 35A, 35B (India)

²⁶Justice V.R.Krishna Iyer, Justice and the Poor: Problems and Prospects, 17 J. Indian L. Inst. 395 (1975)

²⁷The Code of Civil Procedure, 1908, SS35, 35A, 35B (India)

equivalent to the UK²⁸ “loser pays” rule of American system; instead, costs are imposed under section 35, section 35A and section 35B of the CPC mainly to compensate for procedural abuse, delays, or false claims, rather than to fully indemnify a successful party.

CONCLUSION

Court fees and costs occupy a significant position within the framework of civil litigation under the Code of Civil Procedure, 1980. They serve not merely as procedural requirements but as instruments that influence the conduct of litigants, efficiency of courts, and overall access to justice. As examined²⁹ in this research, the primary objective of court fees is not revenue generation but the litigation by discouraging frivolous and vexatious claims while ensuring³⁰ responsible use of judicial resources. Judicial interpretation has consistently reaffirmed that court fees must remain reasonable³¹ and proportionate.

Through landmark judgement such as *Secretary to Government of Madras V. Zenith Lamps and Electricals Ltd., P.M. Ashwathanarayana Setty V. State of Karnataka. And Mannan Lal V. Chhotka Bibi*, the judiciary has emphasized that procedural laws must advance justice rather than obstruct it. The courts have also recognised that excessive financial burdens can undermine constitutional guarantees under Article 14 and 21, thereby restricting access to justice, particularly for economically weaker sections of society. The comparative analysis with United States and United Kingdom highlights that while different jurisdictions adopt varied approaches toward litigation costs, the underlying objective remains the same balancing fairness, efficiency, and access to justice. India’s approach, through flexible, still requires stronger implementation of realistic cost awards to discourage misuse of judicial processes and procedural delays. In conclusion, court fees and costs are essential components of civil litigation, but their effective lies in careful judicial application rather than rigid enforcement.

²⁸The Court Fees Act, 1870, No. 7 of 1870, INDIA CODE

²⁹Raj Kumar, Access to Justice and Human Rights in India, 19 Am. U. Int'l L. Rev. 791(2004).

³⁰Flavia Agnes, Legal Aid and Access to Justice in India, 44 Econ. & Pol. Wkly.15 (2009).

³¹Abhinav Chandrachud, Process, Justice, and the Indian Constitution, 5NUJS L. Rev. 1 (2012)