

Chapter V

Of the Mode of Levying Fees

✓¹[25. Collection of fees by stamps—All fees referred to in section 3 or chargeable under this Act, shall be collected either by stamps ²[or, when there is a scarcity of stamps, in cash] or receipts] [:]³

³[Provided that fees chargeable for serving and executing processes issued by a Certificate-officer in the proceedings in execution of certificates filed for recovery of land revenue or rent may be collected in cash.]

Case-Law

Section 25—Payment of Court-fee in money—Court-fee has to be paid by stamp but where in a case payment of court-fees was made in the form of money such payment was treated as equivalent to the payment of court-fees. *AIR 1928 Patna 29=6 Patna 602(DB)+3 Beng LR (App) 72 (DB)*.

✓²26. Stamps to be impressed or adhesive—The stamps used to denote any fees chargeable under this Act shall be impressed or adhesive or partly impressed and partly adhesive, as the ⁴[Government] may by notification in the ⁵[Official Gazette] from time to time direct.

1. Section 25 was substituted for the original section 25 by East Bengal Act III of 1951.

2. Added by Ord. No. XLIX of 1978, Sch. (w.e.f. 1-6-1979).

3. A colon was substituted for the full-stop at the end of section 25 and thereafter the Proviso was added by East Pakistan Ordinance XV of 1970, section 2.

4. This word was substituted for the words "Appropriate Government" by Act VIII of 1973, section 3 and 2nd Schedule (with effect from 26-3-71).

5. These words were substituted for the words "Local Official Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Case-Law

Section 26—Court-Fee stamp—The requirement of sections 25 and 26 is that court-fee should be paid by stamps. It is not provided anywhere that the stamp should be court-fee stamps. Therefore the Government has no power to require that the stamps should bear the words “court-fee”. Such requisition, if not complied with, will not invalidate the stamp. *19 Bom 145 (DB)*.

27. Rules for supply, number, renewal and keeping accounts of stamps—The ¹[Government] may, from time to time, make rules for regulating—

- (a) the supply of stamps to be used under this Act,
- (b) the number of stamps to be used for denoting any fee chargeable under this Act,
- (c) the renewal of damaged or spoiled stamps, and
- (d) the keeping accounts of all stamps used under this Act:

Provided that, in the case of stamps used under section 3 in ²[the High Court Division], such rules shall be made with the concurrence of the Chief Justice of ³[the Supreme Court].

All such rules shall be published in the ⁴[Official Gazette] and shall thereupon have the force of law.

Case-Law

Section 27—Single adhesive stamp of required value not available—Certificate of non-availability issued by vendor—Document presented without stamp not inadmissible for lack of stamp. *PLD 1955 Lahore 656*.

1. This word was substituted for the words “Appropriate Government” by Act VIII of 1973, section 3 and 2nd Schedule (with effect from 26-3-71).

2. The words within square brackets were substituted for the words “a High Court” by the Bangladesh Laws (Revision and Declaration) Act, 1973, section 3 and 2nd Schedule (with effect from 26-3-71).

3. These words were substituted for the words “such Court” *Ibid*.

4. These words were substituted for the words “Local Official Gazette” by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

Section 27—Rules for supply etc—The use of stamps which are not of correct denomination according to rules made by Government under the section will not be sufficient compliance with the provision of the Act as to the payment of court-fees and the document in question must be treated as not stamped. *AIR 1931 Nag 94=26 Nag LR 263+AIR 1931 Patna 39.*

Rectification of mistake—Where wrong stamps have been used, the court may give time for the rectification of the defect. *AIR 1931 Nag 94=26 Nag LR 263.* If subsequently stamps of correct denomination are supplied, the original stamps cannot be returned to the party nor has the Court power to order a refund of court-fee. But the Court can issue a certificate in favour of the party, which he may use when he applies to the Revenue authorities for a refund. *AIR 1934 Nag 263=31 Nag LR 82+AIR 1931 Patna 113+AIR 1931 Patna 39.*

Section 27—Non-availability of stamps of correct denomination—Where stamps of the required denominations are not available, stamps of lower denomination may be used. *PLD 1955 Lahore 565+AIR 1937 Mad 266+16 Suth WR 152 (DB).* But in that case a certificate from the stamp vendor as prescribed by Rule 4 under Punjab Courts Act would be necessary. *PLD 1955 Lahore 565=PLR 1956 Lahore 1072.*

Section 27—Stamps for “use in High Court”—The words ‘for use in the High Court only’ impressed on the back of court-fee stamps do not invalidate the stamps, if they are used in the lower Courts. *AIR 1926 Patna 408.*

¹[28. **Stamping documents inadvertently received**—No document for which fee is payable under this Act shall be of any validity, unless and until it is properly stamped or supported by proper receipt. But, if any such document is through mistake or inadvertence received, filed or used in any court or office without being properly stamped or supported by proper receipt, the presiding judge or the Head of the office, as the case may be, or, in the case of [the High Court Division], any judge of such court, may, if he

1. Sections 28, 29 and 30 were substituted for the original sections by East Bengal Act III of 1951.

thinks fit, order that such document be stamped or supported by receipt as he may direct; and, on such document being stamped or supported by receipt accordingly the same and every proceeding relative thereto shall be as valid as if had been properly stamped or supported by receipt in the first instance.]

Case-Law

Section 28—This section does not empower the Court to call upon the parties to the deficit court-fee after the judgment is pronounced. *1932 Patna 228.*

Section 28—Scope, sections 28 and 149, CPC—Distinction—The institution of a suit or other proceeding or the presentation of a document will not be a legal institution or presentation if the fee chargeable under the law is not paid at the time of such institution or presentation. Section 149, CPC enacts an exception to that rule. *PLD 1970 Karachi 295+AIR 1951 All 64 (FB)+AIR 1941 Nag 220 (DB).*

Section 28—Whole or any part of any fee—The direction under section 149 CPC applies not only where the court-fee paid is not sufficient but also where no court-fee has been paid at all. *AIR 1929 PC 147+AIR 1935 Patna 100 (DB).*

Section 28—Decree passed on insufficiently stamped plaint—Where a decree is passed in a suit instituted on an insufficiently stamped plaint, the decree will not be void. *AIR 1928 Lahore 221.*

Section 28—Proper Court-fee not paid—effect on limitation—The validity of a suit for purposes of limitation is not affected by the fact that sufficient Court-fee on the plaint is not paid at the time of its presentation. *PLJ 1983 SC 150+AIR 1937 Patna 550 (SB)+32 Mad 305 (FB).*

Section 28—Section 149, CPC gives very wide powers to Courts to allow a party to make up deficiency in the court-fee on a document and directs that when deficiency in court-fee has been made up under the orders of the Court, the document shall be deemed to have been properly stamped with court-fee from the date on which it was put in Court, *PLJ 1983 SC 150+PLD 1970 SC 37+1979 CLC 481*, even though at the time when the full court-fee was paid, the period of limitation had expired.

NLR 1979 Civ 500=PLD 1979 SC 821+PLJ 1978 Karachi 429+PLD 1961 BJ 62.

Section 28—Section 28 of the Court-fees Act, and section 149 of the Civil Procedure Code, are liberally worded as to save plaints not properly stamped from the charge of expiry of limitation, after deficiency is made up, provided the initial defect was not deliberate (malafide) or due to gross negligence or due to some similar reason, which the court considers as one gravely prejudicing the plaintiff to secure such a concession. *PLD 1981 Lahore 97=PLJ 1981 BWP 12=1981 Law Notes 73=NLR 1981 AC 73=PLD 1981 BJ 23 (DB).*

Section 28—Payment of court-fee after limitation—It is only where the deficit is made good within the time allowed by the Court that the payment will have the force or effect as if it had been paid on the date of presentation. *AIR 1955 Hyd 156 (DB)+AIR 1958 Manipur 7(The Code is followed in Manipur in spirit)+AIR 1957 Pepsu 14 (DB).*

Section 28—Discretion to grant time—Section 149, CPC and 2nd paragraph of section 28 of the Court-fees Act, 1970 are similar in their functions and authorise the court to permit a defaulting plaintiff either to make up the deficiency in court-fee or to pay court-fee on wholly unstamped plaint. The exercise of power under both the provisions is discretionary and this object has been achieved by the Legislature by using the word “may” in both the provisions and qualifying the word ‘may’ with the words ‘in its discretion’ in section 149, CPC and with the words ‘if it thinks fit’ in section 28 Court-fees Act. *PLD 1983 Lahore 215 (DB).*

Section 28—Pre-emption suit—A person who comes forward to exercise a predatory right like the right of pre-emption should be very vigilant at every stage. Time should not be granted to a plaintiff in a pre-emption suit where he has been negligent in fixing the proper court-fee stamp on his plaint. *PLJ 1979 SC 108=PLD 1979 SC 821=NLR 1979 Civ 500 (PLD 1980 Lahore 690 does not lay down correct law.)*

Section 28—“Properly stamped”—Unless proper stamps are used to denote court-fees, the document will not be properly stamped within the meaning of this section. *AIR 1934 Nag 263+AIR 1931 Patna 113+6 Cal WN 785.*

Section 28—Non-payment of deficit court-fee, effect—Where the court grants time to the plaintiff to make up deficiency in court-fee but he neither makes up the deficiency in court-fee nor applies for extension of

time, the Court may dismiss his suit. *PLD 1981 SC 371=PLJ 1981 SC 806=NLR 1981 Civ 512.*

Section 28—Stage at which Court-fee may be made good—The Court has a discretion to allow the court-fee to be paid at any stage. *PLD 1981 BJ 23+PLD 1977 Lahore 1422+PLD 1970 Karachi 295 (DB).* The deficit court-fee on a plaint may be allowed to be made good even in appeal. *PLD 1981 SC 489=PLJ 1981 SC 855+PLD 1977 Lahore 142.*

Section 28—Power of Appellate Court—The Appellate Court can exercise powers under Order 7, Rule 11 of Civil Procedure Code. *AIR 1924 Patna 88+6 Patna L Jour 293 (FB).* Under section 149 of Civil Procedure Code, the appellate Court's power is wider and is not limited to the cases contemplated by section 12(ii) or by the second paragraph of this section *AIR 1930 Cal 787 (DB)+AIR 1921 Patna 88 (FB).* Therefore action under the section can be taken after the admission of an appeal. *AIR 1943 Patna 102=21 Patna 720.*

Powers cannot be exercised after decision of case—A court has no power to call for deficit Court-fee after it has pronounced its decision. *PLD 1968 Lahore 106=PLR 1969 (I) Lahore 422+AIR 1933 Lahore 208+AIR 1932 Patna 228 (DB).*

Section 28—Conversion of revision into appeal and 'vice versa'—The High Court can, in a fit case, allow an application for revision to be converted into an appeal upon payment of the requisite court-fee although the period of limitation for an appeal may have expired, provided that it had not expired when the application for revision was filed. *AIR 1925 Patna 16=Patna 344 (DB).*

Section 28—Powers of revisional Court—A Court of revision has power to require payment of court-fees that ought to have been paid in the lower Court. *AIR 1915 Cal 701 (DB).* (Suit under Bengal Tenancy Act, Section 106—Settlement Officer while acting under revisional powers under section 108, Bengal Tenancy Act, can require deficit court-fee on plaint to be made up.)

Section 28—Giving time for payment of Court-fee—Where a case falls under either section 10(ii) of this Act or Order 7, Rule 11, Civil PC, the litigant will be entitled as of right to some time for making up deficiency in court-fee, notwithstanding the fact that under this section the Court is not bound to allow such time but has a discretion in the matter. *PLJ 1974 Lahore 253+AIR 1938 Mad 542+AIR 1917 Lahore 377=1917 Pun Re No. 27 (DB).*

Section 28—Appellate Court—Time for making up deficiency in the court-fee can be extended by the trial Court as well as by the appellate Court. *PLJ 1982 SC 210*.

Section 28—Extension of time—So far as automatic orders are concerned, the Court has no jurisdiction to extend time after the order has become operative. *21 DLR 371+AIR 1962 MP 205*.

Section 28—"Forma pauperies" suit—The Court has a discretion to allow time to an appellant to make up deficiency in court-fee on the memorandum of appeal. *AIR 1941 Nag 220 (DB)+AIR 1929 PC 147=10 Lahore 737*.

Section 28—Further extension of time—The time granted under section 149 can be extended from time to time under section 148. *PLD 1970 Karachi 628+PLD 1969 Dacca 171=21 DLR 334 (DB)*.

Section 28—Memorandum of appeal—If the appellate Court comes to the finding, while passing a decree that proper court-fee has not been paid, should give the appellant time to make good the deficiency. It should not dismiss the appeal on that ground alone. *NLR 1982 UC 354+NLR 1982 CLJ 355+PLD 1967 Pesh 1 (FB)*.

Section 28—Decree on insufficiently stamped appeal—A memorandum of appeal, insufficiently stamped, need not be dismissed in toto. But a decree cannot be passed for more than the amount for which court-fee has been paid. *40 Pun LR 123 (DB)+AIR 1931 Lahore 237 (DB)*.

Section 28—Decree, Court-fee payable on—Where no time is fixed in the decree for the payment of court-fee which is payable under it, the executing Court can allow time for such payment. *AIR 1937 Lahore 720*.

Section 28—Mode of recovery of Court-fee—This section does not empower the Court to realise the amount of deficiency. It only empowers the Court to order that the deficiency may be made good. *AIR 1957 All 63 (DB)*. Ordinarily, the Court has no power to order the recovery of court-fees by attachment of the property of the defaulter or other process in execution proceedings. *AIR 1934 All 989+AIR 1932 All 316+AIR 1919 Cal 194 (DB)*.

Section 28—Appeal—An appellate Court has power to review an order made by an inferior Court in the exercise of discretion under this

section. *PLD 1981 Lahore 97=NLR 1981 AC 73=PLJ 1981 BWP 12=1981 LN 73.*

Section 28—Revision—An order would be revisable only where an appeal does not lie from it. Therefore, an order requiring a plaintiff to pay additional court-fee within a certain time is not one that would be interfered with in revision. *AIR 1938 Lahore 80+16 India Cas 575 (Lahore)+AIR 1957 All 339 (FB).*

Section 28—Review—A Court granting time under this section has power to review its order when it has been obtained by false pretences in the absence of the opposite party. *AIR 1937 Nag 87=ILR 1938 Nag 359.* This may be done by the Court itself even without an application from the aggrieved party. *AIR 1939 Cal 722.*

¹[29. *Amended document*—Where any such document is amended in order merely to correct mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose fresh stamp or receipt.]

✓¹[30. *Cancellation of stamp*—No document requiring a fee under this Act shall be filed or acted upon in any proceeding in any court or office until the stamp or the receipt has been cancelled.

Such Officer as the court or the head of the office may from time to time appoint shall, on receiving any such document, forth with effect such cancellation by punching out ²[Shapla] so as to leave the amount designated on the stamp untouched and the part removed by punching shall be burnt or otherwise destroyed.

1. Sections 28, 29 and 30 were substituted for the original sections by East Bengal Act III of 1951.

2. The words within square brackets were substituted for the words "the crescent and star" by Act VIII of 1973, section 3, as amended by Act LIII of 1974, section 8.

The receipt filed along with any document shall be cancelled with the word "Cancelled" thereon under the signature of an officer in whose office it is filed]:

¹[Provided that if any document bearing a Court-fee stamp of a design current in ²[Pakistan immediately before the twenty-sixth day of March, 1971], and still current in ³[Bangladesh] is presented to the proper officer, he shall forthwith effect the cancellation by punching out the the figure-head so as to leave the amount designated untouched.]

Chapter VI

Miscellaneous

31. [Repayment of fees paid on applications to Criminal Courts.] Rep by section 163 of the Code of Criminal Procedure (Amendment) Act, 1923 (XVIII of 1923).

32. [Amendment of Act VIII of 1859 and Act IX of 1869.] Rep by the Amending Act, 1891 (XII of 1891).

33. Admission in criminal cases of documents for which proper fee has not been paid—Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice,

1. Proviso to section 30 was added by East Bengal Act XXXIV of 1957, section 2.

2. The words within square brackets were substituted for the words "British India immediately before the fifteenth day of August, 1947" by Act VIII of 1973, section 2 and 2nd Schedule (with effect from 26-3-71) as amended by Act, LIII of 1974.

3. This word was substituted for the word "Pakistan", *ibid.*

nothing contained in section 4 or section 6 shall be deemed to prohibit such filing or exhibition.

¹[34. *Sale of stamps*—(1) The ²[Government] may, from time to time, make rules for regulating the sale of stamps or granting of receipts to be used under this Act, the person by whom alone such sale is to be conducted or grant is to be made, and the duties and remunerations of such persons.

(2) All such rules shall be published in the Official Gazette, and shall thereupon have the force of law.

(3) Any person, appointed to sell stamps or grant receipts, who disobeys any rule made under this section, and any person, not so appointed, who sells or offers for sale any stamp or grants or offers to grant any receipt, shall be punished with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred ³[Taka], or with both.]

Case-Law

Section 34—Sale of stamps—A sale of court-fee stamps by a person who has not been licensed to do so is an offence. (01) 24 Mad 319 (DB). (A thief also can be guilty of this offence).

Section 34—Transfer of stamps otherwise than by sale—is not prohibited. Therefore a gift of court-fee stamps by a person who has purchased them but who has no use for them is not prohibited. 1911 Pun LR No. 253 p 939 (DB).

1. This section was substituted for the original section 34 by East Bengal Act III of 1951, section 7.

2. This word was substituted for the words "Provincial Government" by Act VIII of 1973, section 3 and 2nd Schedule (with effect from 26-3-71).

3. This word was substituted for the word "rupees" Ibid.

¹**34A. Enlargement of time**—Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Act, the Court may, in its discretion, from time to time, enlarge such period, even though the period originally fixed or granted may have expired.

Case-Law

An order of dismissal for non-payment of Court-fee can be reviewed without giving notice to the opposite-party because there is practically no opposite-party. 26 CWN 391.

✓²**35. Power to suspend, reduce or remit fees**—(1) The ³[Government] may, from time to time subject to such conditions or restrictions as it may think fit to impose, by notification in the ⁴[Official Gazette], suspend the payment of or reduce or remit, in the whole of *⁵[East Pakistan] or in any part thereof, all or any of the fees mentioned in the first and second schedules to this Act annexed and may in like manner cancel or vary such order.

(2) The ³[Government] may, from time to time by rules, prescribe the manner in which any fee the payment of which is suspended under sub-section (1) may be realised and for this purpose direct that such fee may be recovered as a public demand.

⁵**[35A. Variation of rates**—(1) The *ad valorem* fees liable on the institution of suits specified in Schedule I [as amended before the promulgation of the Court-fee

1. Section 34A was inserted by section 14 of the Court-fees (Bengal Amendment) Act, 1935 (Bengal Act VII of 1935).

2. Section 35 was substituted by section 15, *ibid*.

3. The word was, substituted for the words "Appropriate Government" by Act VIII of 1973, section 3 and 2nd Schedule (with effect from 26-3-71).

4. These words substituted for the words "Local Official Gazette" by paragraph 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

5. This new section 35A was inserted by Ordinance LII of 1962, section 4.

* Sic read "Bangladesh"

(Amendment) Ordinance, 1962, by any Central or Provincial Act shall be reduced by fifteen *per centum* where the value of the subject-matter exceeds two thousand ¹[Taka] but does not exceed fifteen thousand ¹[Taka]; and shall be increased by fifteen *per centum*, where the value of the subject-matter exceeds fifteen thousand ¹[Taka] ²[:]

²[Provided that the proper Court-fee, where the value of the subject-matter exceeds two thousand ¹[Taka] but does not exceed two thousand four hundred ¹[Taka] shall be two hundred eighty-one ¹[Taka] and twenty five poisha.]

(2) The amount of fee leviable after reduction of increase provided for in sub-section (1) shall be calculated to the nearest ¹[Taka] or half ¹[Taka], whichever it may be.]

Case-Law

Section 35A—Section 35A remains operative and its provision is not inconsistent with Sechedule 1 of 1981. *Sonali Bank vs Abdur Rashid*. 39 DLR (AD) 207.

Section 35A—Is it possible to hold that the Legislature was not aware of section 35A while amending the Sechedule ? According to rules of construction it must be presumed that the Legislature is in full knowledge of all existing statutes on the subject when it makes or repeals any law. *Sonali Bank vs Abdur Rashid* 39 DLR (AD) 207.

Section 35A—An implied repeal will be held only when two statutes cannot stand together. *Sonali Bank vs Abdur Rashid* 39 DLR (AD) 207.

Section 35A—Reference to Schedule 1 of 1960 in section 35A must be construed as reference to Schedule 1 of 1981. *Sonali Bank vs Abdur Rashid* 39 DLR (AD) 207.

Section 35A—The contention that there is prohibition as to levy of court-fee beyond Taka 15,000.00 is not acceptable to the court. *Sonali Bank vs Abdur Rashid* 39 DLR (AD) 207.

1. This word was substituted for the word "rupees;"

2. A colon was substituted for the full-stop at the end of sub-section (1) of section 35A and thereafter this proviso was added East Pakistan Act XIV of 1964, section 2.

36. Saving of fees to certain officers of High Court Division—Nothing in Chapters II and V of this Act applies^{1*} * * * to the fees which any officer of² [the High Court Division] is allowed to receive in addition to a fixed salary.

1. The words "to the commission payable to the Accountant-General of the High Court at Fort William, or" were omitted by GGO 4 of 1949.

2. These words were substituted by Act VIII of 1973, section 3 and 2nd Schedule, for "High Court" (with effect from 26-3-71).

Schedule I

Case-Law

Scope—Schedule I has no independent existence and is to be read only as a supplement to section 7 and other sections of the Court Fees Act. *PLD 1981 SC (AJ & K) 55.*

Ad valorem Fees

Number		Proper fees
1.	Plaint, written statement pleading a set-off or counter-claim or memorandum of appeal (not otherwise provided for in this Act) or of cross-objection presented to any Civil or Revenue Court except those mentioned in section 3.	Taka 0.55
	when the amount or value of the subject-matter in dispute does not exceed seventy-five Taka, for every five Taka or part thereof, of such amount or value, <p style="text-align: center;">and</p> when such amount or value exceeds seventy-five Taka, for every five Taka, or part thereof, in excess of seventy-five Taka, up to one hundred Taka.	Taka 0.75
	<p style="text-align: center;">and</p> when such amount or value exceeds one hundred Taka, for every ten Taka, or part thereof, in excess of one hundred Taka, up to one hundred and fifty Taka, <p style="text-align: center;">and</p> when such amount or value exceeds one hundred and fifty Taka, for every ten Taka, or part thereof, up to one thousand Taka,	Taka 2.45 Taka 1.70

Court-fees Act

Ad valorem Fees

Number	Proper fees
<p style="text-align: center;">and</p> <p>when such amount or value exceeds one thousand Taka, for every one hundred Taka, or part thereof, in excess of one thousand Taka, up to seven thousand five hundred Taka,</p>	Taka 11.25
<p style="text-align: center;">and</p> <p>when such amount or value exceeds seven thousand five hundred Taka, for every two hundred fifty Taka, or part thereof, in excess of seven thousand five hundred Taka, up to ten thousand Taka,</p>	Taka 22.50
<p style="text-align: center;">and</p> <p>when such amount or value exceeds ten thousand Taka, for every five hundred Taka, or part thereof, in excess of ten thousand Taka, up to twenty thousand Taka,</p>	Taka 33.75
<p style="text-align: center;">and</p> <p>when such amount or value exceeds twenty thousand Taka, for every one thousand Taka, or part thereof, in excess of twenty thousand Taka, up to fifty thousand Taka,</p>	Taka 45.00

Ad valorem Fees

Number	Proper fees
<p style="text-align: center;">and</p> <p>when such amount or value exceeds fifty thousand Taka, for every five thousand Taka, or part thereof, in excess of fifty thousand Taka,</p>	Taka 56.25
<p style="text-align: center;">and</p> <p>Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be fifteen thousand Taka</p>	

Case-Law

Sch I Art 1—Exemption of Court-fee—All documents filed in civil cases, which proceedings do not originate from presentation of plaints, are not exempt. *PLD 1983 Lah. 383=1983 LN 540.*

—'Ad valorem'—meaning of—*Ad valorem* means according to the valuation. *Ad valorem* duties are always estimated at a certain per cent, on the valuation of the property as opposed to fixed or specific duties. *PLD 1966 Kar. 42.*

—**Applicability and scope**—The article will not apply unless Court-fee is made leviable by some provision in the body of the Act. *PLD 1981 SC(A & K) 55+AIR 1941 Nag.129.*

—**Valuation for court-fee**—Where there are any specific rules in the body of the Act as to the mode of valuing the subject-matter of a suit, the valuation must be made according to such rules for the purpose of this article. *AIR 1942 Pat. 582+AIR 1947. Nag.243+AIR 1937 Mad.46 (DB).*

—**Government appeal**—It would be, in the highest degree inequitable that whereas a claimant is compelled by section 8 to pay *ad valorem* court-fee, the State should be entitled to file an appeal on

payment of a fixed court-fee of Rs.10, and there is no doubt that though section 8 does not in terms apply to state appeals, its provisions should be invoked by analogy, and the court-fee on appeals by the State fixed under Article I of Schedule I of the Court-fee Act. *PLD 1960 Lah. 665=PLR 1960(2) WP 982(FB)*.

—**Addition of reliefs**—Where the parties file a compromise with certain added reliefs, the Court may pass a decree on the basis of the compromise but the plaintiff is liable to pay court-fee on the relief added in the compromise petition to the original relief. *1983 CLC 474*.

—**Written statement, pleading, set off or counterclaim**—Except where a written statement pleads a set-off or counter claim, no court-fee is leviable under this Act in respect of a written statement. *AIR 1949 Mad.471(DB)*. Therefore no court-fee is payable where the written statement does not ask for a cross relief. *AIR 1940 Rang 300=1940 Rang L.R.529*.

—**Quantum of Court-fee payable on set-off**—Court-fee is payable on the full amount sought to be set-off. *1983 CLC 428+AIR 1940 Nag. 177+AIR 1950 All 237(DB)*.

—**Non-payment of Court-fee**—effect—The Court cannot go into the question of set-off unless proper Court-fee has been paid. *1983 CLC 428+AIR 1917 Law Bur. 179 (DB)+AIR 1943 Nag. 314*.

—**Adjustment**—No Court-fee is payable where an adjustment is claimed. *AIR 1937 Lah.62 (1908 Pun. Re. No.83, relied on)=AIR 1957 Raj.392*.

—**Defence of 'payment', court-fee, on**—No Court fee is payable when the defendant sets up the defence of payment. *AIR 1930 Oudh 140+12 Cal. L. Jour 351 (DB)* (Claim for deduction under section 108, CL.(f), TP Act, for sum spent for repairs is not set-off).

—**Utilization of court-fee in separate suit on same matter**—Where court-fee has been paid on a set off or counterclaim but the court is of opinion that the matter should be decided in a separate suit, the court-fee paid by the defendant is not exhausted and can be validly used in the second suit instituted on the counterclaim in the proper court. *AIR1961 Tri.22*.

—**"Not otherwise provided for"**—Where a suit falls under one of the clauses of section 7, court-fee is to be computed in accordance with that section. *AIR1919 Lah. 363=1919 Pun.Re.no 61(DB)*.

—**Computation of value of suit**—The words "not otherwise provided for" refer to provisions fixing court-fee for a particular matter 3 All 108 (FB) (Article applies to a case coming under section 17)+*AIR 1953 Mad. 746=ILR 1953 Mad.572 (FB)*. This article will not apply to a suit or an appeal coming under Sch.II, Art.17. *AIR 1941 Lah. 123=ILR 1941 Lah. 234 (FB)+AIR 1951 Pat. 608*.

—**Memorandum of cross-objections**—Where this provision is applicable, court-fee on the cross-objections cannot be charged under any other provision of the Act. *AIR 1930 Mad. 22+AIR 1924 All 175+AIR 1919 Cal. 620 (DB)*.

—**Computation of court-fee**—According to Article i, Schedule I which governs appeal and cross objections, Court-fee is to be paid on the value of the subject-matter but the value does not in all cases mean market value. Even in section 7 of the Court-fees Act, the words used are "according to the value of the subject-matter". But the section goes on to provide how value is to be computed, so that court-fee is to be paid on the value but the value is determined as directed by the section. *PLD 1954 Lah. 265=PLR 1954 Lah. 326*.

—**Subject-matter incapable of valuation**—Even where the subject-matter in dispute in the cross-objections is not capable of valuation and is covered by Art.17 of Schedule II of the appeal in which the objection is filed is governed by Art.17, the cross-objection must bear *ad valorem* fee under this article. *39 Pun. LR.586+AIR 1933 Oudh 528=5 Luck 506(DB)=11 Luck 79 (DB) = AIR 1925 All 119*.

—**Valuation of appeal**—Where the subject-matter in appeal coincides with the subject-matter in the suit, the value of the appeal for purposes of court-fee will be the same as that of the suit. *PLD 1983 Lah. 383-PLD 1978 Lah. 716=AIR 1924 Lah.530=5 Lah.137(DB)*.

—**Excess Court-fee paid on suit**—A defendant-appellant has to pay only the court-fee that is required to be paid according to law in respect of the subject-matter of the suit. The mere fact that the plaintiff has over-valued the property claimed or paid a higher court-fee than what is required by the law does not bind the defendant. *AIR 1957 Andh Pra. 671*.

—**Deficit court-fee paid on suit and appeal**—Where deficit court-fee has been paid on the plaint, and consequently deficit court-fee has been paid on appeal, the appellate Court cannot, or in any event should

not, ask for payment of the deficit court-fee on the plaint until and unless deficit court-fee on the memorandum of appeal is made good and the appeal is registered. *AIR 1964 Patna 534*.

—**Subject-matter of suit and appeal different**—Where the subject-matter of appeal is different from that of the suit, the value of the appeal for purposes of court-fee will be different. *AIL 1936 Lah. 935=AIR 1935 Nag.83(FB)+AIR 1938 Mad.498(DB)*.

—**Appellant reducing his claim in appeal**—Where the appellant reduces his claim or withdraws from the contest in respect of a portion of it the value of appeal will be reduced to a proportionate extent. *AIR 1927 Lah. 543+AIR 1953 SC 28=1953 SCR 197*.

—**Appeal from conditional decree**—Where the decree granted is conditional upon payment of money, and the plaintiff appeals against the burden imposed on him by the condition, *ad valorem* Court-fee on the sum of money ordered to be paid must be paid. *1884 Pun Re No.33, p 83(FB) (Sch.II Art 17 (vi) does not apply)+AIR, 1921 Lah 371* (Suit for possession—Decree for redemption).

—**Appeal in cases relating to mortgage**—An appeal from a final decree in mortgage suit is chargeable with an *ad valorem* fee under this article. *35 All 476(FB)+AIR 1920 Bom.101+AIR 1947 Pat 113*.

—**Appeal by one of several plaintiffs or defendants**—Where one of several plaintiffs or defendants appeal against the whole decree, Court-fee is payable on the whole appeal and not merely for his share of liability. *('07) 4 All L. Jour 130+('93) 15 All 112(DB)*.

—**Subsequent interest**—No court-fee is payable on a plaint in respect of interest accruing after the institution of the suit. *PLD 1966 lah 1 (DB)+AIR 1937 Nag 6*.

—**Interest payable till realization of decretal amount**—Where interest upto the date of redemption has been awarded in a mortgage decree and the appellant claims interest upto the date of realization, proper court-fee is Rs10 under Schedule II, Article 17(iv). *AIR 1943 Lah 275=ILR 1944 Lah 24(FB)=27 All 559(DB)*.

—**Interest allowed, Court-fee must be paid before execution of decree**—When an appeal is filed by defendant and future interest has been determined and entered in the decree, the plaintiff is bound to pay additional court-fee on the sum of interest so added in the decree, the

plaintiff cannot execute the decree till he pays additional Court-fees. *AIR 1923 Pat 28*.

—**Appeal as to costs**—Ordinarily no court-fee is payable on an appeal in respect of costs. *AIR 1935 Lah 379(DB)+AIR 1934 Lah 739*.

—**Appeal from order**—Only where the order against which an appeal is filed, is a decree or it has the force of a decree *ad valorem* court-fee would be required to be paid under Schedule I Article 1. *AIR 1964 Raj 202 (DB)*.

—**Order rejecting plaint or dismissing suit for insufficiency of Court-fee**—An appeal from an order rejecting a plaint or dismissing a suit for insufficiency of court-fee, cannot come under Schedule II, Article 11 as an appeal from an order. *AIR 1921 Lah 48(DB)+AIR 1929 Pat 615 (DB)+AIR 1949 Nag.1 (FB)*. It falls under this section. ('36-43) *Tax Dec (Nag.) 42 + ('36-43) Tax Dec. (Nag) 82*.

—**Award**—As an Arbitrator's award under East Bengal (Emergency) Requisition of Property Act, 1948 is neither a decree nor an order having force of a decree, it is covered by provisions of Article 11, Schedule II; Schedule I, Article 1 does not apply to it and a fixed Court-fee is payable on an appeal against it. *PLD 1969 Dacca 803=20 DLR 599(DB)*.

—**Appeal on question of liability of property under decree**—Where a property is made liable for decretal amount, *ad valorem* court-fee on the value of property or the amount decreed whichever is less should be paid on the appeal to get a release from liability. *AIR 1938 Pesh 38 (DB)+AIR 1926 Lah 408=7 Lah 215(DB)*.

—**Appeal by one of several persons liable under decree**—Where one of several persons liable under a decree appeals against it, he must pay Court-fee on the entire decretal amount and not merely on his share of liability. Thus where an appeal is against a personal decree against co-trustees on a pro-note executed by them. A trustee should pay *ad valorem* court-fee on the entire decretal amount. *AIR 1941 Mad.313*.

—**Liability of parties not paying Court-fee**—Where one appellant pays the entire court-fee on appeal, but the appellate decision benefits other parties also and the counsel of all the parties agree to share the Court-fee. The appellant who has paid the Court-fee is entitled to recover proportionate share of court-fee from all other parties. *1978 SCMR*

381+PLD 1978 Lah 1139=PLD 1978 Lah 458=PLJ 1978 Lah 149=1978 Law Notes 198.

—Separate appeals arising from same suit—Where two distinct and separate appeals arise out of the same suit, full court-fee must be paid on each appeal. AIR 1921 All 395+AIR 1953 Mad 415+AIR 1951 Mys 111(DB).

Ad valorem Fees

Number		Proper fees
2.	Plaint in a suit for possession under the Specific Relief Act, 1877 section 9.	Taka 0.30
	when the amount or value of the subject-matter in dispute does not exceed seventy-five Taka, for every five Taka, or part thereof, of such amount or value,	
	and	
	when such amount or value exceeds seventy-five Taka, for every five Taka, or part thereof, in excess of seventy five Taka, up to one hundred Taka,	Taka 0.40
	and	
	when such amount or value exceeds one hundred Taka, for every ten Taka, or part thereof, in excess of one hundred Taka, up to one hundred and fifty Taka,	Taka 1.25
	and	
	when such amount or value exceeds one hundred and fifty Taka, for every ten Taka, or part thereof, up to one thousand Taka,	Taka 0.85

Ad valorem Fees

Number	Proper fees
and when such amount or value exceeds one thousand Taka, for every one hundred Taka, or part thereof, in excess of one thousand Taka, up to seven thousand five hundred Taka,	Taka 5.65
and when such amount or value exceeds seven thousand five hundred Taka, for every two hundred and fifty Taka, or part thereof, in excess of seven thousand five hundred Taka, up to ten thousand Taka,	Taka 11.25
and when such amount or value exceeds ten thousand Taka, for every five hundred Taka, or part thereof, in excess of ten thousand Taka, up to twenty thousand Taka,	Taka 16.90
and when such amount or value exceeds twenty thousand Taka, for every one thousand Taka, or part thereof, in excess of twenty thousand Taka, up to fifty thousand Taka,	Taka 22.50

Court-fees Act

Ad valorem Fees

Number	Proper fees
and when such amount or value exceeds fifty thousand Taka, for every five thousand Taka, or part thereof, in excess of fifty thousand Taka,	Taka 28.15
<p>Provided that the maximum fee leviable on a plaint shall be seven thousand five hundred Taka.</p>	

Case-Law

—**Sch. I Art. 2**—To a suit based on title and not on dispossession under section 9, Specific Relief Act this article will not apply and full court-fee will have to be paid. *1894 Bom PJ 346(DB)*.

Number	Proper fees
3. Application for review of judgment, if presented on or after the ninetieth day from the date of the decree.	The fee leviable on the plaint or memorandum of appeal.

—**Second appeal, review against**—For a review petition filed against a decision in second appeal, court-fee payable is that payable on the memorandum of second appeal and not that payable on the memo of first appeal. *11 All 176(SB)*.

—**Computation of time for presentation of review application**—In calculating the period of 90 days for the purpose of these two articles, the question whether the application is barred by limitation or not is immaterial. *ILR (1955) 5 Raj 765*. The period of 90 days mentioned in the Articles is to be counted from the date of the decree, which under the law is to be the date of the judgment, and not from the date when the decree is actually prepared. *AIR 1955 Raj 165=ILR (1954) 4 Raj 818 (DB)*.

—**Time for obtaining copies of decree, etc**—Time required for obtaining copies of a decree and judgment cannot be deducted in calculating the period of 90 days. *AIR 1941 Nag 236(DB)+2 Oudh Cas 302+7 CPLR III*

Court closed on last days—The fact that the Court was closed on the last day of the period of 90 days is immaterial for the purpose of these two articles. *1879 Pun Re No.39,p 107+AIR 1941 Nag 236 (DB)+AIR 1957 Pat 143*.

Application for review in 'forma pauperis'—If an applicant is not allowed to sue or file an appeal as a pauper, he cannot apply for review in forma pauperis. *1895 Pun Re No.91, p 435 (DB)+1870 Pun Re No.24,p 73(DB)*.

Insufficiently stamped application for review—Where proper court-fee has not been paid on a review petition the petition is incompetent in law. *PLD 1978 BJ 7=NLR 1978 Civ 779*. However it has been held that a Court can hear an application for review though it is insufficiently stamped. *21 Ind Cas 943(DB) (Cal)*.

Ad valorem Fees

Number	Proper fees
<p>6. Copy or translation of a judgment or order not being, or having the force of, a decree.</p>	<p>When such judgment or order is passed by any Civil Court other than the High Court Division, or by the presiding officer of any Revenue Court or office, or by any other Judicial or Executive Authority—</p> <p>(a) If the amount or value of the subject-matter is fifty or less than fifty Taka. Taka 1.00</p> <p>(b) If such amount or value exceeds fifty Taka. Taka 1.50</p> <p>When such judgment or order is passed by the High Court Division. Taka 3.00</p>
<p>7. Copy of a decree or order having the force of a decree.</p>	<p>When such decree or order is made by any Civil Court other than the High Court Division, or any Revenue Court—</p> <p>(a) If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty Taka. Taka 1.00</p> <p>(b) If such amount or value exceeds fifty Taka. Taka 2.00</p> <p>When such decree or order is made by the High Court Division. Taka 8.00</p>

Case-Law

Sch. Arts 6 and 7 Scope—The articles apply to civil proceedings only and not to proceedings in Criminal Court. *AIR 1953 Trav-Co 212 (DB)+AIR 1958 Pat 160(DB)*.

—**Order passed in execution proceedings**—Where an appeal is sought to be filed against an order of a Civil Judge passed in execution proceedings, the copy of the order of the Civil Judge must be stamped under Article 21. *AIR 1937 Pesh. 3(DB)*.

Ad valorem Fees

Number	Proper fees
8. Copy of any document liable to stamp-duty under the Stamp Act, 1899, when left by any party to a suit or proceeding in place of the original withdrawn.	<p>(a) When the stamp-duty chargeable on the original does not exceed fifty poisha. The amount of duty chargeable on the original.</p> <p>(b) In any other case. Taka 1.00</p>

Case-Law

Sch. I Arts. 8 Copies of entries in account-books—Copies of entries in account-books, etc. furnished under Order 13, rule 5 of the Civil Procedure Code need not bear any court-fee. *11 Bom. 526 (FB)* (Copies of entries in account Books).

Ad valorem Fees

Number	Proper fees
<p>9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or Office, or from the office of any Chief Officer charged with the executive administration of a Division.</p>	<p>For every three hundred and sixty words or fraction of three hundred and sixty words. Taka 1.00</p>

Case-Law

Sch I Art 9 Criminal proceedings—If a copy of an order or judgment delivered in a criminal proceeding is intended to be filed before the High Court in a criminal Appeal it clearly attracts the provision of Art 9. AIR 1960 SC 128+AIR 1953. Trav-Co. 212(DB).

<p>10. Probate of a will or letters of administration with or without will annexed.</p>	<p>When the amount or value of the property in respect of which the grant of probate or letters is made exceeds five thousand Taka, on such amount or value up to fifty thousand Taka,</p>	<p>Three per centum</p>
	<p>and</p>	
	<p>when such amount or value exceeds fifty thousand taka, on the portion of such amount or value which is in excess of fifty thousand Taka, up to one lakh Taka,</p>	<p>Five per centum</p>

Court-fees Act

Ad valorem Fees

Number	Proper fees
<p style="text-align: center;">and</p> <p>when such amount or value exceeds one lakh Taka, on the portion of such amount or value which is in excess of one lakh Taka, up to two lakh, and fifty thousand Taka.</p>	<p><i>Six per centum</i></p>
<p style="text-align: center;">and</p> <p>when such amount or value exceeds two lakh and fifty thousand Taka, on the portion of such amount or value which is in excess of two lakh and fifty thousand Taka, up to three lakh Taka.</p>	<p><i>Six and a half per centum</i></p>
<p style="text-align: center;">and</p> <p>when such amount or value exceeds three lakh Taka, on the portion of such amount or value which is in excess of three lakh Taka. up to four lakh Taka.</p>	<p><i>Seven and a half per centum</i></p>
<p style="text-align: center;">and</p> <p>when such amount or value exceeds four lakh Taka, on the portion of such amount or value which is in excess of four lakh Taka, up to five lakh Taka.</p>	<p><i>Eight per centum</i></p>

Ad valorem Fees

Number	Proper fees
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and

when such amount or value exceeds five lakh Taka, on the portion of such amount or value which is in excess of five lakh Taka:

Eight and a half *per centum*

Provided that when, after the grant of a certificate under the Succession Act, 1925, in respect of any property included in an estate, a grant of probate or letters of an administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.

Case-Law

Sch I, Art 10 Probate—Court-fees chargeable under this article are in no sense a death duty, and are only payable if probate is taken out. *AIR 1945 Bom. 1=ILR 1945 Bom 783(DB)*.

Court-fees Act

Ad valorem Fees

Number		Proper fees
11. Certificate under the Succession Act, 1925	When the amount or value of any debts or securities specified in the certificate under section 374 of the Act exceeds taka twenty thousand but does not exceed taka one lakh	<i>One per centum</i>
	When the amount or value of any debts or securities specified in the certificate under section 374 of the Act exceeds taka one lakh	<i>Two per centum</i>
	When the aggregate amount or value of any debts or securities specified in the certificate and of any debts or securities to which the certificate has been extended under section 376 of the Act exceeds taka twenty thousand but does not exceed taka one lakh	<i>One per centum of such aggregate,</i>
	When the aggregate amount or value of any debts or securities specified in the certificate and of any debts or securities to which the certificate has been extended under section 376 of the Act exceeds taka one lakh	<i>Two per centum of such aggregate,</i>

1. Substituted vide section 2 of Act 12 of 1995.

Ad valorem Fees

Number	Proper fees
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Notes :

- (1) The amount of a debt is the amount including interest on the pay on which the inclusion of the debts in the certificate is applied for, so far as such amount can be ascertained.
- (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act, and where such power has been conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of a security is its market value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained."

Case-Law

—**Article 11 of Schedule 1**—Rule 773 of Civil Rules and Orders speaks that application for revocation of probate and letters of administration should be treated in the same manner as an application for probate or letters of administration. *Golek Ch Roy vs Niva Rani Guha Roy* 40 DLR 382.

—**Sch I, Art 11 "Value of any debt or security"**—Words "amount or value of any debt or security" in this article refer to individual debts and individual securities and not aggregate of debts and securities and court-fee in respect of certificate of succession must be calculated according to the amount of each individual item and not according to the total amount of such items. *AIR 1934 Oudh 414 (DB)+AIR 1940 Nag 400*.

Ad valorem Fees

Number		Proper fees
12. Application to the High Court Division for the exercise of its revisional jurisdiction under section 115 of the Code of Civil Procedure, 1908.	Where the application is for revision of an order and the amount or value of the subject-matter is less than two thousand Taka.	Taka 20.00
	Where the application is for the revision of an order and the amount or value of the subject-matter is two thousand Taka or more.	Taka 40.00
	Where the application is for the revision of an appellate decree.	The fee leviable on a memorandum of appeal.

Schedule I

Table of Rates of ad valorem fees leviable on the institution of suits

Ad valorem Fees

Number	Proper fees
1	Where the amount or value of the subject-matter does not exceed <u>Taka 10,000.</u> <u>10% of the amount</u>
2.	Where the amount or value of the subject-matter exceeds <u>Taka 10,000</u> but does not exceed <u>Taka 20,000.</u> <u>Taka 1,000 plus 8% of the amount exceeding Taka 10,000.</u>
3.	Where the amount or value of the subject-matter exceeds <u>Taka 20,000</u> but does not exceed <u>Taka 50,000.</u> <u>Taka 1,800 plus 6% of the amount exceeding Taka 20,000.</u>
4.	Where the amount or value of the subject-matter exceeds <u>Taka 50,000</u> but does not exceed <u>Taka 1,00,000.</u> <u>Taka 3,600 plus 3% of the amount exceeding Taka 50,000.</u>
5.	Where the amount or the value of the subject-matter exceeds <u>Taka 1,00,000</u> but does not exceed <u>Taka 2,00,000.</u> <u>Taka 5,100 plus 2% of the amount exceeding Taka 1,00,000.</u>
6.	Where the amount or the value of the subject-matter exceeds <u>Taka 2,00,000.</u> <u>Taka 7,100 plus 1% of the amount exceeding taka 2,00,000 but the total fees shall not exceed Taka [25,000]¹.</u>

1. Substituted vide section 2(2) of Act No. 36 of 1989.

Court-fees Act

¹Schedule II Fixed Fees

Number		Proper fees
1.	<p>Application or petition</p> <p>(a) When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government and when the subject-matter of such application relates exclusively to those dealings,</p> <p style="text-align: center;">or,</p> <p>when presented to any officer of land-revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement,</p> <p style="text-align: center;">or,</p> <p>when presented to any Pourashava or Zilla Parishad under any law for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement, when presented to any Civil Court other than a</p>	Taka 4.00

¹ Substituted vide section 2(3) of Act 36 of 1989.

Fixed Fees

Number	Proper fees
<p>Principal Civil Court of original jurisdiction or to any Court of Small Causes constituted under the Small Cause Courts Act, 1887 or under the Civil Courts Act, Section 25, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty taka.</p>	
<p>or,</p>	
<p>when presented to any Civil, Criminal or Revenue Court or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer or of any other document on record in such Court, Board or office.</p>	
<p>(b) When containing a complaint or charge of any offence other than an offence for which police officers may, under the Code of Criminal Procedure, 1898, arrest without warrant, and presented to any Criminal Court,</p>	<p>Taka 5.00 for complaint cases and taka 2.00 for all other cases.</p>

Court-fees Act

Fixed Fees

Number	Proper fees
<p style="text-align: center;">or,</p> <p>when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue Officer having jurisdiction equal or subordinate to a Collector,</p>	Taka 5.00
<p style="text-align: center;">or,</p> <p>to any Magistrate in his executive capacity and not otherwise provided for by this Act, or to deposit in Court revenue or rent; or for determination by a Court of the amount of compensation to be paid by a land lord to his tenant.</p>	Taka 5.00
<p>(c) When presented to the Chief Revenue or Executive Authority or to a Commissioner, or to any Chief Officer charged with the executive administration of a Division and not otherwise provided for by this Act.</p>	Taka 6.00
<p>(d) (i) When presented to the High Court Division under section 115 of the Code of Civil Procedure, 1908,</p>	

Fixed Fees

Number	Proper fees
	for revision of an order
(a)	When the value of the suit to which the order relates does not exceed Taka 1000. Taka 50.00
(b)	When the value of the suit exceeds Taka 1000. Taka 100.00
(ii)	When presented to the High Court Division otherwise than under that section. Taka 10.00

Case-Law

Sch II, Art I Oral application—An oral application will not require any court-fee ('70) 2 *NWPHCR 418(DB)*.

Application for two or more reliefs—Court-fee on an application comprising two reliefs will not be calculated separately on the two reliefs. *AIR 1933 Sind 143=27 Sind LR 312+1954 All 736*.

Written statement—The expression "application or petition" does not include written statements. *12 Cal LR 367(DB)*.

Application for probate or letters of administration—An application for initiating proceeding for a probate of a will or letters of administration is governed by this Article, *AIR 1938 Rang. 141*. (The article applies only in initial stage of this proceeding but not when it reaches the stage of an appeal)+*15 Suth WR 40 (DB)*.

Fixed Fees

Number		Proper fees
2.	Application to any Civil Court that records may be called for from another Court.	5 Taka in addition to any fee levied on the application under clause (a), clause (b), or clause (d) of article 1 of this schedule.
3.	Application for leave to sue as a pauper.	Taka 5.00
4.	Application for leave to appeal as a pauper.	Taka 5.00
5.	Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy.	Taka 5.00
6.	Bail, bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908 and not otherwise provided for by this Act.	Taka 5.00
7.	Undertaking under section 49 of the Divorce Act.	Taka 5.00

Fixed Fees

Number		Proper fees
8. Wakalatnama.	When presented for the conduct of any one case—	
	(a) to any Civil or Criminal Court other than the High Court Division, or to any Revenue Court, or to any Collector or Magistrate, or other Executive Officer, except such as are mentioned in clauses (b) and (c) of this number.	Taka 5.00
	(b) to a Commissioner, a Collector of Customs and Excise or to any officer charged with the executive administration of a Division not being the Chief Revenue or Executive Authority.	Taka 10.00
	(c) to the High Court Division or Chief Revenue or Executive Authority.	Taka 10.00
9. Memorandum of appeal when the appeal is not from a decree or an order having the force of a decree and is presented.	(a) (i) to any Revenue Court or Executive Officer other than the High Court Division or the Chief Revenue or Executive Authority.	

Court-fees Act

Fixed Fees

Number	Proper fees
(ii) to any Civil Court other than the High Court Division.	
(b) to the Chief Revenue or Executive Authority.	Taka 10.00
(c) to the High Court Division	Taka 20.00

Case-Law

Sch II, Art 9 Award, appeal against—An appeal against a decree on an award does not come within this Article and *ad valorem* court-fee is payable on it under Art.1 of Sch.1 AIR 1926 Lah 403.

Alteration of law—An appeal must be valued according to the provision of law in operation at the time of its presentation, and the original value put in the plaint under the repealed enactment is to be disregarded. PLD 1980 Lah 145=NLR 1980 Civ 82.

Fixed Fees

Number	Proper fees
10. Caveat	Taka 100.00
11. Petition in a suit under the Native Converts Marriage Dissolution Act, 1866.	Taka 20.00
12. Plaint or memorandum or appeal in each of the following suits—	
(i) to alther or set aside a summary decision or order of any of	Taka 100.00

Fixed Fees

Number	Proper fees
the Civil Courts or of any Revenue Court.	
(ii) to alter or cancel any entry in a register or the names of proprietors of revenue paying estates.	Taka 100.00
(iii) to obtain a declaratory decree where no consequential relief is prayed.	Taka 100.00
(iv) to set aside an award	Taka 100.00
(v) to set aside an adoption	Taka 100.00
(vi) for partition and separate possession of a share of joint family property or of joint property, or to enforce a right to a share in any property on the ground that it is joint family property or joint property if the plaintiff is in possession of the property of which he claims to be a co-partner or co-owner.	Taka 100.00
(vii) to obtain a decree for dissolution of marriage or restitution of conjugal rights.	Taka 30.00

Fixed Fees

Number	Proper fees
(viii) every other suit where it is not possible to estimate at a money value the subject matter in dispute and which is not otherwise provided for by this Act.	Taka 100.00
13. Application under section 14 or section 20 of the Arbitration Act, 1940.	Taka 100.00
14. Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908.	Taka 100.00
15. Every petition under the Divorce Act, except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act.	Taka 30.00
16. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act, 1865.	Taka 30.00

Articles 17 to 22 now omitted but the case laws are shown as below :

Case-Law

Art.17(iii)—For a declamatory decree, pure and simple—fixed court-fee payable. *11 DLR 57.*

Art.17(iii)—A declamatory suit for declaring that a decree obtained is fraudulent without a prayer for setting aside the same is maintainable on payment of fixed court-fee. *12 DLR 224.*

Art.17(iii)—Suit for declaration with a redundant prayer—To ascertain court-fee to be paid the substance of the plaint to be looked at. *12 DLR 642.*

—If, for example, the plaintiff prays, firstly, for a declaration that money is due to him from the defendant, and secondly, prays for recovery of that money, the second relief cannot be treated as a consequential relief flowing from the first relief.

—The reliefs that are prayed for in a suit are not always the criterion by which a correct decision can be arrive at as to whether it comes under one category or the other for purposes of court-fee. It is the substance of the plaint that is to be looked into. *12 DLR 642.*

See the case of *Daibakilal Basak vs Iqbal Qureshi*, under section 7(iv)(c) above, *17 DLR 119.*

Art.17(iii)—The plaintiff was not a party to certificate proceedings which were against one for realisation of certain sum of money. The plaintiff instituted a suit and one of the reliefs claimed in the plaint ran as follows:

"The plaintiff is not liable for any money claimed under the certificate proceedings for the realisation of the amount."

Held—The relief claimed is purely declamatory which the plaintiff can seek under section 42 of the Specific Relief Act and as such, a fixed court-fee under Article 17(iii), Schedule II of the Court-fees Act, is payable. *11 DLR 57.*

Case-Law

Art.17(VA)—Partition whilst in joint possession:—Fixed court-fee will be payable and a separate valuation will have to be for the purposes of jurisdiction calculated at the value of the share claimed. *9 DLR 190.*

Art. 7(VA)—Court-fee in a partition suit,—Partition Suit—Plaintiff claiming joint possession in suit property and asking for a separate share of his. Fixed Court-fee is payable but value of plaintiffs share shall determine the forum both of the suit and appeal—If the object of the suit is to partition the entire property, value of the entire property will determine the forum of the suit and appeal. *12 DLR (FC) 329.*

Art. 17(VA)—Valuation of a petition in revision must be according to the value of the original suit. *11 DLR 163.*

Case-Law

Art.17(vi)—Appeal—Memorandum of, fixed court-fee payable when subject-matter cannot be estimated at a money-value. *8 DLR 609.*

—**Removal of mutwalli—**Court-fee payable for,—

Suit for removal of mutwalli and appointment of a new mutwalli, is not a suit for possession of any property. Such reliefs cannot be estimated at a money value and are governed by Article 17(VI), Schedule II of the Court-Fees Act. A prayer for accounts in a suit for removal of mutwalli is ancillary to the substantive prayer and is not subject to any additional court-fee. *4 DLR 373.*

—**Partition suit—Court-fee—**Claim of joint possession in plaint—Plaintiff, paying ad valorem court-fee on defendant's objection without, however, amending his plaint and deleting allegation of joint possession—Plaint continues to be a plaint under Article 17(VI), Schedule II of the Court-Fees Act. *(1955) PLR (Lah) 670.*

¹Schedule III

(See section 19-1)

**Form of valuation (to be used with such modifications,
if any, as may be necessary)**

In the court of

Re Probate of the Will of

of the property and credits of deceased.

(or administration)

I

{solemnly affirm}

Make oath

and say that I am the executor (or one of executors or one of the next of kin) of, deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the above named deceased died possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets, exclusive only of such last mentioned items, but inclusive of all rents, interests, dividends and increased values since the date of the death of the said deceased, are under the value of.

1. Schedule III was inserted by section 3 of the Court-fee Amendment Act, 1899 (XI of 1899). The Original Schedule III was repealed by Act XIV of 1870.

Annexure A

Valuation of the movable and immovable property of—deceased.

Cash in the house and at the banks, house-hold goods, wearing apparel, books, plate, jewels, etc.

(State estimated value according to best of executor's or administrator's belief.)

Property in Government securities transferable at the Public Debt Office.

(State description and value at the price of the day; also the interest separately, calculating it to the time of making the application.)

Immovable property consisting of

(State description giving, in the case of houses, the assessed value, if any, and the number of years' assessment the market-value is estimated, at, and, in the case of land, the area, the market-value and all rents that have accrued.)

¹ [Taka]	Poisha

1. Subs. by Act LIII of 1974, for "Rs."

Leasehold property

(If the deceased held any leases for years determinable, state the number of years' purchase the profit rent are estimated to be worth and the value of such, inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.)

Property in public companies

(State the particulars and the value calculated at the price of the day; also the interest separately, calculating it to the time of making the application.)

Policy of insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities for money

(State the amount of the whole; also the interest separately calculating it to the time of making the application.)

Book debts

(Other than bad.)

Stock in trade

(State the estimated value, if any.)

Other property not comprised under the foregoing heads

(State the estimated value, if any.)

Total

Deduct—Amount shown in Annexure B not subject to duty

Net Total

1[Taka]	Poisha

1. The word "Taka" was substituted by Act VIII of 1973, section 3 and 2nd Scheduled (with effect from 26-3-71) for "Rs"

Annexure B

Schedule of debts, etc.

Amount of debts due and owing from the deceased payable by law out of the estate

Amount of funeral expenses

Amount of mortgage incumbrances

Property held in trust not beneficially or with general power to confer a beneficial interest.

Other property not subject to duty

Total

¹ [Taka]	Poisha

1. The word "Taka" was substituted by Act VIII of 1973, section 3 and 2nd Scheduled (with effect from 26-3-71) for "Rs"

Suits Valuation Act

¹[Act No.VII of 1887]

[11th February, 1887]

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

Whereas it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

1. Title—The Act may be called the Suits Valuation Act, 1887.

Part I

Suits relating to land

2. Extent and commencement of Part I— This part shall extend to ²[Bangladesh] and come into force therein on such dates, as the ³[Government], by notification in the ⁴[official Gazette], directs⁵

1. For Statement of Objects and Reasons, see Gazette of India, 1886, Pt. VI p 791; for Report of the Select Committee, see *ibid*, 1887, Pt. IV, p 18; and for proceedings in council, see *ibid*, 1886, supplement , pp 1131 and 1155, and *ibid*, 1887, Pt. VI, pp 16 and 21.

2. Subs. by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), section 3 and 2nd Schedule for "such local areas" (with effect from 26th March, 1971).

3. Subs. *ibid*, (with effect from 26th March, 1971), for "Provincial Government."

4. Subs by AO, 1937, for "Gazette of India".

5. Part of the Act has, under section 2, been declared to extend the Punjab, and to come into force there in on the 1st day of march, 1889. See Gazette of India 1889, Pt I, P-107.

3.—(1) Power for Government to make rules determining value of land for jurisdictional purposes—The ¹[Government] may ^{2*} * * * make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area and may prescribe different values for different places within the same local area.

Case-Law

Valuation of land—Under section 3 of the Suits, Valuation Act, 1887 read with rules 1 and 2 framed under section 3 of the Act, the value determined is essentially artificial in character and has no reference to the market value of the property. The power so conferred is unfettered and the plea that market value is different from the value so determined will not be available. *PLD 1960 Lah 1088=PLD 1964 Pesh 228 (DB)*. But where no Rules have been framed by the Provincial Government as is the case with former Bahawalpur State, value for the suit is market value of the property. *PLD 1962 BJ 33 (DB)*.

*Houses or land—*The section does not apply to the valuation of houses. *1899 Pun Re No.72, P 314*. In a suit for possession of certain land after removing building illegally erected thereon by the defendant, the value of the land alone is to be taken into consideration, and not of the building sought to be removed. *(97) 7 Mad L Jour 49 (DB)*.

Suit relating to contingent interest in land—Rules for the valuation of a contingent interest in land are not contemplated by this section. *1897 Pun Re No.18, p 69 (Reversionary rights)*.

*Declamatory suit relating to land—*Section 4 and not section 3, applies to a suit for declaration relating to land *AIR 1927 Mad. 563=50*

1. Subs. *ibid.*, (with effect from 26th March, 1971), for "Provincial Government)".

2. The words "(subject to the control) of the GG in C.", rep by AO 1937. The words in brackets were subs. by the Devolution Act, 1920 (XXXVIII of 1920), section 2 and Schedule I, for "with the previous sanction".

Mad. 646 (DB). The value for purposes of jurisdiction will be the same as the value for purposes of court-fees (subject to condition in section 9(4) in the cases of a suit for a declaration relating to land, falling under section 7 (iv) (c) of the Court-fees Act. *AIR 1914 Lah.214=1913 Pun Re No.111 (FB)*. Where however the suit is for a bare declaration and comes under Sch II, Art 17 (iii) of the Court-fees Act, the value of the land (subject to the limit mentioned in section (4) will determine the value of the suit for purposes of jurisdiction *1892 Pun re No.145, P 499 (DB)+AIR 903 (DB)+AIR 1927 Mad 563 (DB)+AIR 1921 Pat 32 (DB)*.

Pre-emption, suit for—Suits for pre-emption relating to land fall under section 7 (v) by virtue of section 7 (vi) of the Court Fees Act and as such are governed by section 3 of the Suits Valuation Act. Hence in such cases the value of the land for purposes of jurisdiction is to be determined in accordance with the rules, if any, made by the Provincial Government under the section *PLD 1980 Lah 471 (DB)*.

Appeal—In pre-emption cases the plaintiff is permitted to fix a notional value which remains the same for determining the forum of appeal irrespective of the decretal amount *NLR 1981 AC 646=PLD 1981 SC (AJ&K) 55*. The jurisdictional value of a suit does not change with the form of the decree and the forum of appeal is to be determined by the value of the decree *AIR 1960 Punjab 434*.

Mortgage Suits—Redemption of mortgage. This section does not apply to a suit for redemption of a mortgage where the property is in the possession of the mortgagee ('10) *9 Ind Case 464=1 Upp Bur 10*.

4. Valuation of relief in certain suits relating to land not to exceed the value of the land—Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

Case-Law

Partition suit—A suit for partition of the plaintiff's share must be valued for purposes of jurisdiction under section 4 of the Act according to the share of the plaintiff *AIR 1952 All 413*.

5.(1) Making and enforcement of rules—The ¹[Government] shall, before making rules under section 3, consult the ²[Supreme Court] with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule been published in the ³[official Gazette].

6. [Repeal of section 14 of the Madras Civil Courts Act, 1873,] Omitted by AO., 1949, Schedule.

Part II

Others Suits

7. Extent and commencement of Part II—This part extends to ⁴[the whole of ⁵[Bangladesh]], and shall come into force on the first day of July, 1887.

1. Subs. by the Bangladesh Laws (Revision and Declaration) Act, 1973, (Act VIII of 1973) section 3 and 2nd Schedule for "Provincial Government" (with effect from 26th March, 1971).

2. Subs. *ibid.*, for "High Court" (with effect from 26th March, 1971).

3. Subs by AO, 1937, for "local official Gazette".

4. The words "the whole of Pakistan" were substituted by the Central laws (Statute Reform) Ordinance, 1960 (XXI of 1960), section 3 and 2nd Schedule (with effect from 14th October, 1955), for "all the Provinces and the Capital of the Federation."

5. The word "Bangladesh" was substituted for "Pakistan" by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), section 3 and 2nd Schedule (with effect from 26th March, 1971).

8. Court-fee value and jurisdictional value to be the same in certain suits—Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.

Case-Law

Under section 8 the value for the purpose of jurisdiction and court-fee is same. *1930 Cal 686.*

—in suits where section 8 applies, the method is to value the suit for the purpose of court-fees first and then to take that value for the purpose of jurisdiction. *1939 Cal. 155; 42 CWN 667.*

—Under section 8 the value of the suit, upon which the court fee has been assessed and paid without objection, is the value for the purpose of jurisdiction. *6 CLJ 255 FB; 25 CWN 768*

—section 8 includes cases coming under cl (ix) of section 7 Court-fees Act. The valuation of such suit for the purpose of court-fee and jurisdiction is the same. *52 CLJ 589; 1931 Cal 159.*

—a party cannot put a purely fancy value for the purpose of jurisdiction where the valuation can be correctly ascertained. *1927 Pat 224*, and cannot put one valuation for the purpose of court-fee and another for jurisdiction *58 C 281; 34 CWN 870.*

—in a suit for partition where the plaintiff has been completely excluded, the valuation of the suit is the value of plaintiffs share. *1943 Mad. 655; 29 CWN 76; 1925 Cal.*

—in partition suit value of entire property is value of the suit. *1923 Pat 342.*

—in a case of specific performance, the valuation for the purpose of court-fee and jurisdiction is the same. *25 CWN 768.*

—in a suit for injunction court-fee is to be computed under section 7(iv)(d) of the Court-fees Act according to the amount at which the

plaintiff values the relief and in such a case separate valuation for jurisdiction is unnecessary. *45B 567; 44B 331.*

—a suit for declaration that the plaintiff is the sole shebait and also for injunction restraining the deft. from interfering with his possession falls within section 8 and so the valuation for jurisdiction and court-fee must be the same. *17 CWN 591.*

—an administration suit by a creditor is in fact a suit for an account within section 7(IV)(f) of the Court-fees Act and the plaintiff can place his own valuation which for the purposes of jurisdiction is the same as the valuation for the purposes of court-fees. *21 CWN 310.*

—In a suit for accounts the plaintiff may put his own valuation. *1937 Rang 320;*

—a suit under Or 21 R 63 is valued for the purposes of jurisdiction according to the market value of the property and not according to decretal amount *39 M 602.*

—but if the decretal debt is less than the value of the property attached, the suit by DH should be valued on the decretal debt. *1945 Cal 440.*

—the proper valuation of a suit to enforce a right of pre-emption is that fixed in section 7(V) of the Court-fees Act and the forum is determined accordingly *41 M 721; 45 IC 89.*

—in a redemption suit it is the amount of the principal debt that should be taken as determining the jurisdiction under the Act *149 IC 560.*

—in a redemption suit against a mortgagee in possession the amount due on the mortgage is the value of the suit *52 CWN 132.*

—in appeal plaintiff cannot change the valuation put in trial court. *1932 All 114; 135 IC 237.*

—valuation in plaint if precludes different valuation in appeal *38 CWN 751.*

—in a suit for an injunction it is open to the applicant for leave to appeal to His majesty in Council to show what the actual value of the subject-matter is, notwithstanding the fact that for the purpose of court-fee the value of the suit was fixed at a sum much less than the actual value. *27 C 301.*

—Accounts—Suit for—Court fee—Plaintiff at liberty to value suit for purposes of court-fee at any figure he chooses—For purpose of choosing forum of appeal arising out of such suit, appellant to follow value put by plaintiff himself—Suits Valuation Act (VII of 1887). Section 8: *The Pakistan Boy Scouts Association vs Qazi Muhammad Sharif and another*, (1969) 21 PLD (Peshawar) 175.

Scope and applicability—Except the cases covered under section 8 of the suits of Suit Valuation Act, it is not necessary that the Court-fee value and the jurisdictional value should be the same; in fact they are seldom the same *PLD 1981 SC (AJ & K)55= NLR 1981 AC 646*, Where a case falls under this section the value of the suit for court-fees is to be applied for jurisdiction and not vice versa *AIR 1927 Lah 890=9 Lah. 366 (DB) (But see PLD 1980 Kar 492 which does not appear to lay down correct-law)+ 9DLR 190=PLR 1956 Dacca 628*, *AIR 1930 Cal 686*. Therefore the proper procedure under the section is to determine the value for court-fees and then adopt the same valuation for jurisdiction (*AIR 1949 Lah 116 (FB) (AIR 1932 Lah 132; AIR 1931 Lah 307+AIR 1941 Lah 97+AIR 1935 Lah 698; AIR 1936 Lah 703 and AIR 1927 Lah 499 Overruled)+PLR 1956 Dacca 628=DLR 9. 190+AIR 1939 Cal 155 (DB)*). Section 7(iv) of the Court-fees Act does not mention that the value fixed by the plaintiff is tentative or provisional. What it says is that the valuation can be fixed by the plaintiff according to what he likes and that valuation is to be taken to be correct for purposes of levy of the court-fees. By section 8 of the Suits Valuation Act, this valuation is also taken to be the valuation for purposes of jurisdiction. Section 11 provides for the levy of the extra court-fees in case the amount decreed is higher, but does not touch the valuation of the suit for purposes of jurisdiction *AIR 1959 Raj 101=ILR (1959) 8 Raj 383 (DB)*.

Valuation for jurisdiction—The term "value" denotes market value, *AIR 1927 Mad 563 (DB)+('53) 6 Sau LR 529* at the time of the institution of a suit *AIR 1935 Pat 160 (DB)+AIR 1928 Nag 71 (DB)+('84) 8 Bom31 (DB)+AIR 1918 Mad 998 (FB)* (Subsequent change in value). Where the subject-matter is such that some deductions have to be allowed to the defendant out of the total claim, value should be fixed after making those deductions *AIR 1965 AP 13 (DB)*.

Value not ascertainable in terms of money—Where the subject-matter is wholly unrelated to anything which can be readily stated in definite money terms, the plaintiff must put a more or less arbitrary value

and the Court will accept that valuation *AIR 1927 Mad 563=50 Mad 646 (DB)*.

How value may be determined—In considering the nature of a suit for valuation it is the allegations in the plaint that must be considered *AIR 1935 Pesh. 174+('12) 6 Sind LR 114 (DB)+1902 Pun LR No.38, p 155* and the relief asked for and not the relief ultimately awarded will determine jurisdiction *AIR 1915 Mad 683 (DB)*.

Valuation by plaintiff—Even where the subject-matter is not incapable of valuation, *prima facie* valuation by the plaintiff would determine jurisdiction *AIR 1942 Rang 10 (DB)+AIR 1926 Nag 71 (DB)+AIR 1925 Rang 278(DB)+('99) 2 Oudh Cas 103+('76) 25 Suth WR 76 (DB)*. But if through gross negligence or deliberate design the suit is over-valued or under-valued, the true value as determined by the court will determine jurisdiction *AIR 1915 Mad 44+AIR 1951 Him Pra 22+('12) 6 Sind LR 256 (DB)+('84) 8 Bom 31 (DB)*.

Maintainability of suit immaterial—In determining the nature of a suit, its maintainability is immaterial *AIR 1935 Pat. 160=14 Pat 414 (DB)*.

Valuation is a preliminary issue—A question of valuation should be tried as a preliminary issue *('07) 31 Bom 73 (DB)+('82) 8 Cal 975 (DB)*

Suit for partition—The value for the purpose of jurisdiction, in a partition suit, is the same as value for court-fee. *PLD 1956 Dacca 628=9 DLR 190+AIR 1963 Guj 291*. Sections 8 and 9, Suits Valuation Act, show that except when specific rules to the contrary have been framed, the value for purposes of court-fee and jurisdiction must be the same *PLD 1959 Pesh 101=PLR 1959 (2) WP 1250*.

Value of plaintiffs share—The value for jurisdiction of a suit for partition depends on the value of only the plaintiff's share *AIR 1915 Lah 131 (DB)+('12) 6 Sind LR 256 (DB)*. *AIR 1949 Oudh 37 (DB)* (Suit for partition brought by the heir of a Mohamedan). When the plaintiff is in possession the value for the purpose of jurisdiction does not exceed the share of the plaintiff *PLD 1961 SC 349=13 DLR SC 191+PLD 1960 Dacca 565 =12 DLR 329 + PLD 1961 Dacca 59 (Repeated in PLD 1960 Dacca 789)*.

Appeal—In a suit for partition the value of the plaintiffs share has been held to determine the forum of appeal *62 Ind Cas 979 (DB) (Lah)+AIR 1947 Mad 407 (DB)+14 Mad 462 (DB)*.

Suit for declaration and consequential relief—The value for purposes of jurisdiction of a suit for a declaration and consequential relief, will be the amount at which the relief is valued in the plaint for purposes of court-fee *PLD 1949 Lah 8+PLD1967 Pesh 75 PLD 1949 Baluchistan 1+AIR 1918 PC 135+AIR 1914 Lah 214=1913 Pun Re No.111 (FB)+AIR 1963 Guj 291*. Where in a suit properly falling under section 7 (iv)(c), Court-fees Act the plaintiff has stated in the plaint a particular value for purposes of court-fee and a different value for purposes of jurisdiction, it is the value for purposes of court-fees that determines the value for purposes of jurisdiction *AIR 1949 Lah 116=PLR 1949 Lah 123 (FB) (AIR 1941 Lah 97, AIR 1927 Lah 499, AIR 1939 Lah 703, AIR 1935 Lah 698, AIR 1932 Lah 132 and AIR Lah 307, Overruled)*.

Valuation by plaintiff—It is open to the plaintiff to value his suit as he likes for the purposes of court-fees, and this value, according to section 8 of Suits Valuation Act must be the same for purposes of jurisdiction *PLD 1949 Bel 1*. Sections 8 and 9, Suits Valuation Act, show that except when specific rules to the contrary have been framed, the value for purposes of court-fee and jurisdiction must be the same *PLD 1959 Pesh 101=PLR 1959 (2) WP 1250*.

Suit for declaration where consequential relief is not prayed—Under section 9, the High Court can make rules as to the mode of valuing such suits. In the absence of any such rules, the value of the suit for jurisdiction will have to be decided by the Court *AIR 1918 Lah 246=1918 Pun Re No.81 (DB)+AIR 1955 Him Pra 50+8 Sau LR 161*.

Value of right determines valuation of suit—The value of the right in respect of which a declaration is sought should be regarded as the value of the suit for purposes of jurisdiction *AIR 1930 Lah 18 (DB)+AIR 1936 Oudh 317 (DB)+8 Sau LR 161+AIR 1946 Mad 94+AIR 1935 Mad 874+20 Bom 736 (DB)+1 Bom 538 (DB)+AIR 1927 Mad 568+AIR 1921 Pat 32 (DB)*.

Suit for injunction—This section applies to suits for injunction *AIR 1929 Lah 566 (DB)+6 Sind LR 114 (DB)+AIR 1963 Guj 291+AIR 1940 Bom. 242 (DB)+AIR 1953 Cal 34 (DB)+AIR 1940 Pat 247 (DB)+AIR 1914 Cal 879 (DB)*. Therefore the valuation for jurisdiction would be the valuation for the purposes of court-fees as well *AIR 1959 Madh Pra 253+AIR 1963 Guj 291*.

Suit for accounts—This section applies to a suit for accounts and its value for jurisdiction will be the amount at which the relief is valued in the plaint for court-fee *PLJ 1980 Lah 104=1979 CLC 95+PLD 1969 Pesh 175+AIR 1935 Lah 40+AIR 1961 Him Pra 22+AIR 1960 J &K 89(DB)*.

Appeal—It is open to the plaintiff to value his suit for the purposes of court-fees at any figure he chooses. Keeping the provisions of section 7 (iv) (f) of the Court-fees Act, in juxtaposition with section 8 of the Suits Valuation Act, the value for purposes of court-fee and jurisdiction must be the same, and for the purpose of choosing the forum of appeal the appellant in a suit for accounts is to be guided only by the value for purposes of jurisdiction, which has been put by the plaintiff. *1979 CLC 578=PLJ 1979 Lah 278+PLD 1969 Pesh 175+AIR1957 Him Pra 29+AIR 1961 Him Pra 22+AIR 1953 J & K 13 (DB)*.

Suit for possession of immovable property—Normally, it is the market-value of the property that would have to be taken into account for purposes of jurisdiction *AIR 1940 Cal 375 (DB)+AIR 1949 Mad 719+158 Ind Cas 296 (Oudh)*.

Land and buildings—When the plaintiff claims only the land without the structures erected by the defendant, the value of the suit for jurisdiction is the value of land only *AIR 1928 Lah 852*. In a suit for the possession of land after demolishing the buildings thereon erected by the defendant, the value for land only should be considered, *11 Oudh Cas 45+1883 All WN 89 (DB)* but where the plaintiff claims the land as well as the buildings on it, the value of the suit is the value of the land plus the value of the buildings *1886 All WN 106 (DB)*.

Appeal—The forum of appeal in a suit for possession of immovable property is determined by its market-value *29 Bom 96 (DB)+5 Cal 489 (DB)*.

Suit for fixation of fair rent—In an application under a Rent Control law for fixation of fair or standard rent the proper course is to act on the analogy of section 7 (xi) and to hold that true valuation of application for standardization of rent would be an amount equivalent to the amount of rent payable for the year next preceding the presentation of the application; in other words, twelve times the monthly contractual rent when the rent has been uniform and in other cases, the total of the actual rent for the twelve months. Even in applications where neither

enhancement nor reduction of rent is specifically asked for but only settlement of fair and reasonable rent is asked for, the value of the application will be twelve times the contractual rent which, it is presumed, the landlord would decide to have maintained *AIR 1954 Cal 77=ILR (1954) 2 Cal 396 (DB)*.

Suit for pre-emption—The subject-matter of a suit for pre-emption is the property sought to be pre-empted, *1908 Pun LR No.215 P 681* and the market value of the property sought to be pre-empted is the value for jurisdiction *AIR 1925 Oudh 493+1878 Pun Re No.54, P 201 (FB)*.

Market value, how determined—The amount stated in the sale-deed as consideration will not necessarily be the value of the property ('11)9 *Ind Cas 414 (Oudh)*. The amount which the plaintiff alleges to be the market-value is the value for jurisdiction *1900 Pun Re No.101 (DB)+AIR 1926 Oudh 140* (Except where the plaintiff deliberately misstates value)+ (.03)6 *Oudh Cas 255*.

Forum for appeal—The appellate forum in a suit for pre-emption depends on the value of the property, as stated in the plaint ('03)6 *Oudh Cas 255+(91) 13 All 320 (DB)*.

Suit for redemption—In a suit for redemption the property mortgaged does not constitute subject-matter in dispute *PLD 1947 PC 322=AIR 1948 PC 36=ILR 1947 Lah 727*. Value for purposes of jurisdiction in a redemption suit depends on the amount found due to the mortgagee *PLD 1947 PC 322=AIR 1948 PC 36=74 Ind App 285 (AIR 1927 Rang 304 Overruled)+AIR 1926 Lah 376 (FB)*.

Suit for foreclosures—The value of a suit for foreclosure is the market-value of the land mortgaged *11 Oudh Cas 154 (DB)*.

Suit for specific performance—The value of a suit for specific performance of a contract of sale is the amount of consideration for the sale *AIR 1928 Lah 635+AIR 1923 Oudh 252*.

Suit relating to office of trustee—In a suit for removal of defendant and appointment of plaintiff as manager of the trust property, value of the suit is the value of trust property *8 Mad 516 (DB)*.

Suit by Hindu reversioner challenging alienation by widow—The value of a suit by Hindu reversioner challenging an alienation by a widow

will be value of the property in respect of which the declaration is sought *AIR 1932 Mad 671+1882 All WN 130 (DB)*.

Suit for restitution of conjugal rights—The value of a suit for restitution of conjugal rights is the value assigned to it by the plaintiff *AIR 1935 Cal 338 (DB)+AIR 1951 Rang 187 (FB) (unless vitiated by improper motives)+34 Bom 236 (DB)+34 Cal 352 (FB) (DB)+28 All 545 (FB) (DB)*

Suit to avoid an instrument—In a suit for cancellation of a sale-deed the consideration expressed in the sale-deed determines the value of the suit *AIR 1933 Rang 40*.

Cancellation of mortgage—In a suit for cancellation of a mortgage-deed the amount for which the mortgage-deed was executed is the value of the suit *11 Ind Cas 443=1912 Pun Re No.21+7 Nag LR 190+7 Mad HCR 372*.

Suit to set aside award—Where a suit is filed to set aside an award under Workmen's Compensation Act, the value of the suit is determined by the amount awarded to the workmen. No other value can be placed on the suit *1982 CLC 1162*.

Forum of appeal—The Suits Valuation Act does not apply to appeals but only to suits *AIR 1946 Bom 356=ILR 1946 Bom 245*.

Several causes of action—Where a suit embraces two or more causes of action, the aggregate value of the different causes of action will be the value of the suit for the original as well as the appellate Court *36 Bom 628 (DB)+30 Mad 61+16 Mad 328 (DB)*.

9. Determination of value of certain suits by Supreme Court—When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph X, clause (d), is such that in the opinion of the ¹[Supreme Court] it does not admit of being satisfactorily valued the ¹[Supreme Court] may, with the previous section of the ²[Government], direct that

1. Subs. by the Bangladesh Laws (Revision and Declaration) Act, 1973, section 3 and 2nd Schedule for "High Court" (with effect from 26th March, 1971).

2. Subs. *ibid*, for "Provincial Government" (with effect from 26th March, 1971).

suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the ¹[Supreme Court] thinks fit to specify in this behalf².

Case-Law

In an objection regarding under-valuation of the plaintiff's suit Court may under section 8C of the Court-fees Act revise and determine the valuation of the suit where objective standard for determining the valuation is available irrespective of the fact that no rule has been made by the High Court under section 9 of the Suits Valuation Act *Karamat Ali vs Province of East Pakistan, 22 DLR 646*.

—**Valuation of a suit—Plaintiffs absolute discretion:**—In a suit coming under section 7(IV) (c) of Court-fees Act having, as regards its valuation, no objective standard available, nor have any rules been framed by the High Court under section 9 of the Suits Valuation Act, plaintiff has a discretion as to the amount at which the relief is to be valued and the court has no power to revise such valuation.

Section 8C Court-Fees Act, gives the Court power to revise the valuation of any suit. But that does not improve matters as regards cases dealt with in section 7(iv)(c) inasmuch as it does not indicate any method or principle by which the court can revise the plaintiff's valuation in cases where there is no objective standard.

The value of a relief in any suit is its value to the plaintiff, that is to say, its value is which the plaintiff will lose if it is refused or gain if it is allowed: *Star Film Distributor vs Sargam Pictures 6 DLR 466*.

Section 8, Court-fee Act and this section—The Court is authorised under section 8 (c) of the Court-Fees Act to hold an inquiry as to valuation of any suit and to assess the same. This is absolutely an independent power consciously given by the Legislature to the Court and the Legislature must be presumed to have in its mind the provision of section 9 of the Suits Valuation Act *20 DLR 77*.

1. Subs. by the Bangladesh Laws (Revision and Declaration) Act, 1973, section 3 and 2nd Schedule for "High Court" (with effect from 26th March, 1971).

2. For rules as to valuation of certain classes of suits under this section, see different local R & O.

10. [Repeal of section 32, Punjab Courts Act, 1884 (XVIII of 1884).] Rep by the Amending Act, 1891 (XII of 1891), section 2 and Sch I.

Part III

Supplemental Provisions

✓ 11.(1) Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes—Notwithstanding anything in ¹[section 99 of the Code of Civil Procedure, 1908] an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had no jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

- (a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or
- (b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

1. Subs. by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), section 3 and 2nd Schedule, for "section 578 of the Code of Civil Procedure" (with effect from 26th March, 1971).

Case-Law

Section 11(I)(b) of the Suits Valuation Act does not prevent the High Court from exercising revisional jurisdiction, in a case where the suit or appeal has not been disposed of *AIR 1963 Gujerat 207*.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provision of this section with respect to an appellate Court shall, so far they can be made applicable, apply to a Court exercising revisional jurisdiction under ¹[section 115 of the Civil Procedure Code, 1908] or other enactment for the time being in force.

(5) This section extends to ²[the whole of ³[Bangladesh]], and shall come into force on the first day of July, 1887.

1. Subs. by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), section 3 and 2nd Schedule, for 'section 622 of the Code of Civil Procedure' (with effect from 26th March, 1971).

2. The words "the whole of Pakistan" were subs. by the Central Laws (Statute Reform), Ordinance, 1960 (XXI of 1960), section 3 and 2nd Schedule (with effect from 14th October, 1955), for "all the Provinces and the Capital of the Federation."

3. The word "Bangladesh" was subs. for "Pakistan" by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act VIII of 1973), section 3 and 2nd Schedule (with effect from 26th March, 1971).

Case-Law

—If no objection as to valuation of a suit is taken either in the trial or appellate Court—No further objection will be allowed, especially if the party concerned has not been prejudiced in any matter. *Gopla Krishna Das vs Abdul Kader Mia* 35 DLR 14.

—This section is a statutory recognition of the principle that a defect in the jurisdiction of a Court resulting from an error in the valuation of a suit or appeal should not render proceedings in a case abortive if such objection was not taken in the earliest opportunity and there has been no consequent failure of justice. It lays down that an objection as to pecuniary jurisdiction of a Court on the basis of over-valuation or under-valuation of a suit or appeal cannot be allowed to be raised afterwards unless an objection on that score was raised in the manner and to the extent provided in the section and unless there has been a prejudice on merit. It is thus patent that this section is limited to cases where there is an erroneous assumption of jurisdiction by a Court as a result of an error in the valuation of a suit or appeal and it has no application where there is error in the valuation. *Naresh Ch Saha vs Karizannessa* 1986 BLD 361.

—Section. 11 does not apply where there is want of pecuniary jurisdiction 202 IC 126.

—"over-valuation" and "under-valuation" is erroneous valuation caused by mis-application of the Court-fees Act 62 LC 715.

—objection to jurisdiction on the ground of valuation should be taken at the earliest possible moment. It cannot be taken during arguments. 1934 Pat 184, Sp B., or for the first time before the HC 1923 Pat 581. Where a nominal value as distinct from the real value is placed on property for the purpose of Sch II of the Court-fees Act, the nominal value cannot displace the real value for the purpose of jurisdiction. 24 CWN 33: 36 MLJ 437.

—section 11 does not bar an objection being taken in second appeal though it was taken in both the Lower Courts 5 Pat 11 397, 561C contra, 1945 Mad 56 185 IC 467.

—under-valuation by the plaintiff without any objection by the deft. does not render a decree a nullity. 210 IC 163 FB.

—over-valuation or under-valuation cannot be allowed to affect a decree, if it does not prejudicially affect the disposal of the suit on merits. *55 A, 315 ; 137 CWN 764.*

—under-valuation which resulted in the first appeal being heard by a court which had no jurisdiction does not amount to prejudice. *1949 Pat 278 FB ; 1950 Pat 359 ; 1954 SC 340.*

—Scope—The object of section 11, Suits Valuation Act, is to provide a machinery for curing the original lack of jurisdiction and simply, placing over-valuation and under-valuation on the same footing with other curable irregularities *AIR 1956 Mad 593.*

Change of forum—The section applies where there is a change of jurisdiction (due to erroneous valuation) from a Court of exclusive jurisdiction like a Court of Small Causes to that of a *Munsif 26 Cal 661 (DB).*

"over-valuation or under-valuation"—This section applies to all cases of over-valuation or under-valuation however it may be caused *31 Cal 849 (DB).* The section applies to cases where the objection taken is to the principle or mode of valuation adopted *AIR 1920 Mad 1017 (DB)+AIR 1953 Mad 871.* ("Over-valuation or under-valuation" includes valuation which rests on some erroneous basis. *AIR 1920 Mad 1017 Foll. AIR 1920 Mad 843 Ref)+AIR 1947 Mad 407 (DB)+AIR 1920 Mad 843 (DB)+9 Nag LR 161.*

Objection as to jurisdiction when may be taken—Where there is no question of valuation involved and the proceedings are on the face of them beyond the jurisdiction of the Court which has disposed of them, the objection can be taken at any stage *12 Bom 155 (DB)+AIR 1960 Pat 244 (FB), (AIR 1919 Pat 345, Overruled on another point)+AIR 1946 All 456.*

Objection not raised in trial Court—A party cannot object in appeal to a valuation not questioned by him at the trial of the suit *1982 CLC 2511 (SC AJ & K)+PLD 1956 Lah 214 AIR 1929 Lah 509.*

Objection in second appeal—An objection taken at the proper time and overruled both by the trial Court and the lower appellate Court can be taken again in second appeal *24 Mad 43 (DB).* But the objection cannot be raised for the first time in second appeal *AIR 1938 Pesh 77 (DB)+AIR 1931 Lah 605+AIR 1930 Mad 541+AIR 1923 Pat 581 (DB)+PLD+1956 SC Ind) 38.*

Objection in execution proceedings—An objection as to under-valuation or over-valuation of the suit cannot be taken before the executing Court as a bar to the execution of the decree *AIR 1938 Pesh 77 (DB)+AIR 1942 Pat 152 (DB)+AIR 1960 Pat 136 (DB)*.

Objection in subsequent suit—A decree passed in one suit cannot be impeached in a subsequent suit, as passed by a Court which owing to defective valuation had no jurisdiction *AIR 1929 Mad 323 (DB)* (Suit to declare as void)+*AIR 1956 Andh 253+AIR 1952 Hyd 57 (DB)*. (*Objection to jurisdiction in respect of previous suit raised in subsequent suit—Ex-parte decree in previous suit operates res judicata*)+*AIR 1927 Mad 201+AIR 1924 All 388 (DB)* (Suit to set aside decree on ground that Court had no jurisdiction to pass it is not maintainable).

Objection to jurisdiction of High Court—After a High Court has disposed of an appeal an application for review that the appeal was over-valued and did not fall within its jurisdiction does not lie *AIR 1937 All 628=ILR 1937 All 592 (DB)*.

Estoppel, where objection not raised—A party to a suit having adopted a certain valuation cannot in the same suit object to that valuation (*II nd App 84 (PC)*). Where an objection to valuation has once been raised in the lower court and rejected, the same objection cannot be raised in appeal *AIR 1953 Punj 268 (DB)*.

—"**Has prejudicially affected**"—In deciding whether a party has indeed been prejudiced on the merits of the case no presumption of prejudice is to be drawn from the mere fact of lack of jurisdiction, on the contrary something more must be shown to lead to an inference of prejudice. The fact that the trial of a suit or the hearing of an appeal by a Court of inferior pecuniary jurisdiction does not by itself raise a presumption that the decision was prejudicially affected on the merits *PLD 1968 Pesh 148*.

Objection raised before trial court—A party to a suit who has adopted a valuation cannot object to it in the same proceeding *PLD 1956 SC (Ind) 38+1 Ind App 84 (PC)*.

No objection raised in lower court—Where no objection has been taken in the lower Court at all, the appellate Court cannot take notice of the objection where there has been no prejudice on the merits *AIR 1953 Mad 871*.

Over valuation of plaint or appeal—Where on the valuation by the trial Court itself, the suit was beyond its jurisdiction and yet such Court disposed of the suit, it was held that the decision was "prejudiced" within the meaning of this section *AIR 1919 Cal 984 (DB)*.

'Res judicata'—A prior decision cannot be questioned on the ground that the suit in which it was pronounced was owing to incorrect valuation, tried by a Court which on the true valuation, had no jurisdiction *AIR 1938 Mad 257 (DB) + AIR 1953 Hyd 237 = ILR 1952 Hyd 37 (DB)*. (Even when the decree in previous suit was *ex-parte*) *+AIR 1943 All 340=ILR 1943 All 834 (DB)*. The plaintiff cannot get rid of the bar of *res judicata* by deliberately over-valuing the same claim in a subsequent suit *AIR 1917 Pat 409 (DB)*.

Revision—Where an objection in the trial Court that the suit has been under-valued is overruled, revision against the order is competent *1961 Raj LW 237*.

12. Proceedings pending at commencement of Part I or Part II—Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

- (a) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or
- (b) with respect to any appeal arising out of any such suit.

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Court-fees Act

[VII of 1870]

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