

The Orissa Criminal Court Witnesses (Payment of Expenses) Rules, 1963

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The Orissa Criminal Court Witnesses (Payment of Expenses) Rules, 1963 Published vide Notification No. 8983-3-J-53/62 Judl., dated the 23rd October, 1963, Published vide Orissa Gazette Part 3 of 1963 Notification No. 8983-III-J-53/62 Judl., dated the 23rd October, 1963. - In exercise of the powers conferred by Section 544 of the Code of Criminal Procedure, 1898 (V of 1898) and in supersession of all rules and order made on the subject, the State Government do hereby make the following Rules for regulating payment by the State Government of expenses of complaints and witnesses attending any Criminal Court in the State for the purposes of any enquiry, trial or other proceeding under the said Code.

1.

(i) These rules may be called the Orissa Criminal Court Witnesses (Payment of Expenses) Rules, 1963. (ii) These rules shall come into force, with effect from the date of issue of this notification.

2.

In these rules unless the context otherwise requires -(a) "Code" shall mean the Code of Criminal Procedure, 1898; (b) "Section" means a section of the Code; (c) "witness" includes complainant; (d) all other words and expressions used but not herein defined shall have respectively the meanings assigned to them in the Code.

3.

The Criminal Courts are authorised to pay at the rates specified in the Schedule to these rules the expenses of -(a) witnesses, whether for the prosecution or for the defence- (i) in cases in which the

prosecution is instituted, or carried on by, or under the orders of or with the sanction of the Government, or any Judge, Magistrate, or other public officer, or in which it shall appear to the Presiding Officer to be directly in furtherance of the interests of the public service ; and(ii)in all cases entered as not bailable in Column 5 of Schedule II appended to the Code ; and(b)witnesses in all cases in which they are summoned under the provisions of Section 540 of the Code.

4.

If a witness is summoned at the instance of the complainant or accused under Section 244, his expenses shall not be withheld from him except on the ground of failure to do his duty as a witness when summoned.

5.

(1)For the purpose of computing the expenses which the Criminal Courts are authorised to pay, witnesses shall be divided into three classes, namely -Class 'A' - Labourers or the poorer class;Class 'B' - Cultivators, artisans, petty traders and such other persons belonging to lower middle class; andClass 'C' - Persons of better position.And such expenses shall ordinarily be a day's allowance which may be paid to persons coming under Class 'C' on demand by them and, to persons of other two classes as a general rule.(2)(i)The rates fixed in the Schedule to these rules are maximum, and are intended to meet the cost of one day's meal. In every case therefore, the Court should consider the circumstances of the individual and the local conditions, and grant of reduced allowance in circumstances and the localities where the actual cost of one day's meals fall short of the maximum rate admissible.(ii)In the case of witnesses of Classes 'A' and 'B' for the payment of travelling allowance, the fare should be paid at the lowest rate.For every date of appearance in the Court a witness shall be paid, diet allowance at the rate specified in the Schedule. In addition a witness shall be entitled to diet allowance at the rate admissible to him for the days covered by journey from his ordinary place of residence to and from the Court if such journey exceeds 100 kms. both ways. But if such journey is performed wholly or in part on the date of appearance in the Court diet allowance for one day shall be admissible. Where there are alternative routes, the fare shall be calculated by the shortest route.(iii)In addition to above charges travelling allowance at ferries will be allowed at the authorised rates to the extent to which they may have been actually incurred.

6.

Notwithstanding anything in the preceding rules -(i)Government servants or employees of the Railways when, summoned to give evidence in their public capacity shall receive nothing from the Court. In such case, they shall be paid travelling allowance at their own rates by the employing Government or the Railways, as the case may be, on production of a certificate of attendance granted by the Court. Any sum which may be deposited in the Court for travelling and diet allowance of such witnesses shall be deposited by the Court in the Treasury to the credit of the Government or the Railway concerned.If, however, the Court in which they give evidence is situated within 5 miles of their headquarters and no travelling allowance is therefore admissible for the journey, the Court may pay them the travelling expenses actually incurred, provided they are not in

receipt of permanent travelling allowance.(ii)Government servants other than those who are subject to the Payment of Wages Act, 1936 (IV of 1936), when summoned to give evidence in their private capacity may be paid by the Court the expenses admissible to persons of corresponding rank under these rules. In order to avoid any difficulty in the matter of payment of travelling allowance and dearness allowance to these witnesses, they may be filled into the categories of A, B and C class witnesses on the basis of their pay as follows :Class 'A' - Persons drawing salary up to Rs. 75 per month.Class 'B' - Persons drawing salary exceeding Rs. 75 but not exceeding Rs. 200 per month.Class 'C' - Persons drawing salary exceeding Rs. 200 per month.Similarly for non-Government institutions like local bodies, Zilla Parishads and Life Insurance Corporation, etc., their employees when summoned by the Criminal Courts may be paid their travelling allowance, etc., in accordance with the scale indicated for Government and Railway employees.If the Court pays them any sum as diet allowance apart from payment of travelling expenses, they shall credit that sum to Government or the Railway concerned.(iii)Government and Railway employees who are subject to the Payment of Wages Act, 1936 (IV of 1936), when summoned to give evidence in their private capacity may be paid by the Court any travelling allowance admissible to persons of corresponding rank under these rules but no diet allowance. Any sum which may be deposited in the Court for the diet allowance of such witnesses shall be deposited by the Court in the Treasury to the credit of Government or the Railway, as the case may be.Witnesses following professions such as medicine, law and giving expert evidence shall be given special allowance according to circumstances.[Schedule] [Substituted vide Orissa Gazette Extraordinary No. 2/1.2.1985.]Travelling allowance

Class of witness	Maximum diet allowance per diem	By road or boat	By rail or steamer	For coming on foot where no conveyance is available	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
(a) Wage earning type	Rs. 10	Actual conveyance charges of Bus, Rickshaw, Bullack Cart or Boat	Second class fare with conveyance charges from station to Court	Not exceeding Rs. 1.50 for every 16 kms. of distance travelled as the Criminal Court may fix	
(b) Skilled type	Rs. 15	Do	Do	Do	
(c) Superior Class	Rs. 20	Do	First Class fare conveyance charges from station to Court		