

HIGH COURT (MIDDLE INCOME GROUP) LEGAL AID SCHEME

I. Name of the Scheme

The Scheme is known as "HIGH COURT MIDDLE INCOME GROUP LEGAL AID SCHEME" [hereinafter referred to as The Scheme]. The scheme is self supporting and the initial capital of the scheme shall be from the costs fund of The State Legal Services Authority and the High Court Legal Services Committee.

II. Purpose of the Scheme

The Scheme is intended to provide legal services to the citizens belonging to the Middle Income Group. Thus, citizens whose gross income does not exceed Rs.6,00,000/- (Rupees Six Lakhs only) per annum or Rs.50,000/- (Rupees Fifty thousand only) per month shall be reckoned as those coming in the Middle Income Group for the purposes of this Scheme.

III. Office of the Scheme

The office of the High Court Legal Services Committee or such other place identified by the Executive Committee and approved by the Patron-in-Chief shall be the office of the Scheme.

IV. Applicability of the scheme

The scheme shall be applicable for cases intended to be filed in the High Court of Kerala, Central Administrative Tribunal and Kerala Administrative Tribunal.

V. The Office bearers of the scheme

- I. The Chief Justice, High Court of Kerala shall be the patron-in-chief of the scheme
- II. The Executive Chairman, KeLSA shall be the Chairman of the scheme
- III. The Executive Committee shall consist of the following members:
 - a) Chairman of the High Court Legal Services Committee.
 - b) The Advocate General
 - c) The Assistant Solicitor General of India
 - d) The Director General of Prosecution
 - e) The Member Secretary, Kerala State Legal Services Authority

- f) The President of the High Court Advocates' Association
- g) A representative of the Kerala High Court Senior Advocates' Association nominated by the said association.
- h) A representative of the Kerala Federation of Women Lawyers nominated by the said association.
- i) A representative of the Bar Council of Kerala nominated by the said association.
- j) A representative of the Kerala High Court Advocate Clerk's Association nominated by the said association

IV. The term of office of [f] to [j] shall be one year from the date of Nomination

V. The Secretary, High Court Legal Services Committee shall be the secretary of the scheme

VI. The treasurer of the scheme shall be nominated by the Patron in -Chief from among the members of the Executive Committee.

VI. Meeting of the Executive Committee

- a) The Executive Committee shall meet at least once in three months or at such other shorter intervals as the business may warrant, at such place and time as may be specified by the Chairman with the approval of the Patron-in Chief. The Secretary of the scheme shall draw the minutes of the meeting, get it approved by the Chairman and communicate to the members.
- b) The meeting of the Executive Committee shall be presided over by the Chairman and in the absence by a member chosen by the members of the Executive Committee present from among themselves
- c) The quorum for a meeting shall be seven and no quorum shall be necessary for the adjourned meeting
- d) All the subject matters in the agenda at a meeting shall be decided by the majority of votes of the members present and in case of equality of votes, the person presiding shall have a second vote.
- e) Notice of every meeting of the Executive Committee shall be given in writing by the Secretary to the members at least 5 days prior to the date of meeting. However, in urgent matters only one day notice is required.

f) The secretary shall at the commencement of the next meeting of the Executive Committee inform the members, the action taken on the decisions in the previous meeting.

g) A copy of the minutes shall be sent to the Kerala State Legal Services Authority and the High Court Legal Services Committee.

VII. Panel of lawyers

There shall be two panels of lawyers namely, (1) Senior Panel and (2) General Panel. The lawyers who can be included in the senior panel and the general panel shall be nominated on obtaining their consent and on consultation with the Kerala High Court Senior Advocates' Association and the Kerala High Court Advocates Association respectively.

VIII. Application for service of an empanelled advocate

a) Every person, who desires to avail the services of an Advocate empanelled under the scheme, shall apply to the Secretary of the Scheme in the prescribed form, along with the prescribed documents.

b) The proforma of application shall contain a schedule of fee and expenses as applicable from time to time. The schedule shall indicate the fee payable for various items of work and shall also indicate the court fee, advocate fee and other expenses.

c) The estimated fee, Court fee and expenses shall be indicated by the Secretary.

d) The applicant shall deposit the fee, Court fee and expenses indicated by the Secretary in accordance with the Schedule attached to the scheme and indicated by the Secretary, in cash or by way of Bank Draft.

e) An additional non-refundable sum of Rs.750/- or such other sum prescribed by the Executive Committee shall also be paid towards the contingent fund of the scheme.

f) If, however, for any reason, the amount which is payable to the learned Advocate under the scheme, court fee or the expenses exceeds the amount indicated by the Secretary, the applicant shall make good the difference as and when called upon by the Secretary.

g) The schedule of fee and expenses as appended to the Scheme shall be in force until it is amended from time to time.

IX. Proof of Income

The salary certificate issued by the head of the department will be sufficient for the purpose of proof of income so far as Government Employees are concerned. They shall also swear to an affidavit regarding other income, if any. For all others, an income certificate issued by the Village Officer concerned may be insisted for proof of income.

X. Scrutiny of application

a) The Secretary shall assign the application and documents submitted by the applicant to an empanelled advocate for scrutiny and opinion whether the applicant is entitled to the benefit of the scheme to move the High Court or the Tribunal. The choice, if any, of advocate indicated by the applicant shall be considered.

b) If the Learned Advocate opines that the applicant has a prima facie case to proceed with or defend, necessary legal aid shall be provided to the applicant under the scheme.

c) The applicant shall not be entitled to the benefit of the scheme if the Learned Advocate opines that it is not a fit case for moving before the High Court. The opinion of the Advocate on the question of the applicant having a prima facie case for prosecuting or defending the case shall be final in so far as the eligibility of the applicant for obtaining the benefit of the scheme is concerned.

XI. Return of papers to the applicant, if found not eligible for legal aid under the scheme

Upon receipt of the opinion as provided above, the Secretary shall return all the papers submitted along with the application and the amount deposited forthwith to the applicant on proper acknowledgment and after deducting a sum of Rs.750/- towards service charge payable to the Advocate concerned. Refund of any amount to the applicant shall be by way of cheque or by such other mode specified by the Executive Committee.

XII. Choice of advocate from the panel and registration of the case under the scheme

The applicant may indicate the name of any three Advocates from of the General panel maintained under the scheme. The secretary shall, as far as possible, attempt to honour the choice of advocate indicated by the applicant. The decision of the secretary of the scheme on the choice of Advocate to be engaged shall be final. Thereafter, the Secretary shall register the case under the High Court (Middle Income Group) Legal Aid Scheme and forward the papers to the advocate engaged from the General panel.

XIII. Engagement of Senior advocate from the panel

If the advocate engaged under clause XII prefers to avail the service of a Senior Advocate, he shall submit a request in writing to the secretary indicating any three names from the senior panel maintained by the secretary. The secretary shall attempt to honour the choice indicated, to the extent possible, if engagement of a senior advocate is necessary. The decision of the secretary as to the necessity to engage a senior lawyer from the panel shall be final.

XIV. Responsibility of advocate entrusted with the case

- a) Once the case is assigned to an Advocate from the panel, it shall be the responsibility of the said Advocate to deal with the matter as he/she deems fit in the interest of the applicant.
- b) The Advocate shall keep the secretary of the scheme and the party informed about progress of the case from time to time.
- c) The additional expenses, if any incurred, shall be intimated to the secretary with details so that the applicant can be requested to make good the deficit amount.
- d) It shall be the duty of the advocate to obtain and forward a certified copy of the judgment/order to the party concerned under intimation to the secretary of the scheme.
- e) It shall be the duty of the lawyer concerned to issue notice to the party, immediately after the forwarding of a certified copy of the order/judgment as provided in clause [d], requiring him to take back all the documents received under clause VII[a] and such other documents entrusted by the party thereafter.
- f) All the documents received through the secretary under Clause VII[a] and such other documents entrusted by the party thereafter shall be returned to the party concerned on proper acknowledgment under intimation to the secretary.
- g) If the party concerned does not take back the records within three months from the date of receipt of notice under clause[e], the advocate concerned shall not be held responsible for loss, or damage, if any, of the documents

XV. Payment of honorarium to the panel advocates.-

[a]The honorarium payable to the Advocate shall be paid on receipt of a bill after the conclusion of the final hearing of the matter.

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[b]The Advocate concerned shall submit his bill claiming his honararium and expenses in accordance with the rates mentioned in the schedule along with a copy of the filing memo in token of proof of filing the Petition/Appeal for which the claim is made.

XVI. Operation of Bank account

The Executive Committee of the scheme shall open a savings bank account with the State Bank of India, High Court of Kerala Branch in the name of "High Court (Middle Income Group) Legal Aid Scheme". The account shall be jointly operated by the Secretary and Treasurer of the Scheme.

XVII. Amounts received including Grants- in- aid

[a]All sums received under the scheme including grants in aid shall be accounted and duly audited.

[b]The amount received under the scheme shall be utilised to meet the expenses of the scheme duly approved by the Executive Committee.

XVIII. Contingent Fund

[a]A Contingent Fund of the Scheme shall be created to meet the miscellaneous expenditure using the non-refundable sum of Rs. 750/-, or such other sum fixed by the Executive Committee, deposited along with the application in addition to the charges required to be deposited.

[b]The amount available in the contingent fund shall also be used to meet the expenses including the payment of fee of the auditor for auditing the account, printing of forms and vakalatnama, binding of registers for maintaining accounts and for such other purpose indicated by the Executive Committee. The initial expenses for printing of forms and other office expenses shall be borne from initial corpus of the Scheme.

XIX. Enquiry into the complaint against the panel lawyers

[a]The complaint if any, received against any Advocate in the panel shall be enquired into by an enquiry officer appointed by the Executive Committee and upon hearing both parties, action as shall be deemed fit be taken.

[b]If the Advocate, who is appointed under the Scheme, is found negligent in the conduct of the case entrusted to him, he shall be required to return the brief together with the fee, if any, paid to him under the Scheme. The said advocate alone shall be responsible for the negligent conduct of the case.

[c]The name of the Advocate found negligent in conducting the case shall be removed from the panel prepared under the Scheme.

[d]The Scheme shall not be responsible for the negligent conduct of the case by the advocate appointed.

XX. Amendment to the scheme

The Executive Committee shall have the power to amend, modify or alter the scheme as and when required with the approval of the Patron-in-chief.

SCHEDULE OF HONARARIUM FOR THE PANEL ADVOCATES

Category	Filing expenses	Honararium	
		Minimum	Maximum
WP	1500	5000	12500
WA	2000	5000	12500
CMA/FAO/MFA	1000	4500	12500
Crl.RP /Crl.Appeal	1500	4500	12500
RFAs/AS	1500	4500	12500
Other appeals	1500	4500	12500
Contempt of Court cases	1500	4500	12500
Sales Tax/Tax revision cases	1500	5000	12500
Crl. Petitions including Crl.M.C.	1500	3250	12500
Bail applications	1000	3250	12500
Company cases	1500	4500	12500
Civil Revision	1500	4500	12500
Review petition	1500	3250	12500
LAA	1500	4500	12500
Central Administrative Tribunal [CAT]	1500	3250	12500
Kerala Administrative Tribunal[KAT]	1500	3250	12500

Court fee payable as per the provisions of the Kerala Court Fees and Suits Valuation and the Kerala High Court Rules
