

Tamil Nadu Employees Insurance Courts Rules, 1951

CONTENTS

CHAPTER 1 :- Employees' Insurance courts

1. Short Title And Commencement
2. Definitions
3. Composition Of The Court And Place Of Sitting
4. Constitution Of The Presiding Officer Of A Civil Or Criminalcourt As A Court
5. Distribution Of Business Where There Are More Courts Thanone
6. Fixing Of Time Of Sitting, Etc., Where There Is One Court Fortwo Or More Local Areas
7. Procedure Where There Are More Judges Than One
8. Abolition, Etc., Of A Court
9. Appointment, Salaries, Allowances, Etc
10. Appointment Of Other Officers And Subordinate Staff
11. Administrative Control Of The High Court
12. Seal

CHAPTER 2 :- Procedure and Execution of orders

13. Application
14. Production Of Documents
15. Register Of Applications
16. Place Of Suing
17. Limitation
18. Applications Presented To Wrong Court
19. Issue Of Summons
20. Service Of Summons Or Notice
21. Additional Matters In The Summons
22. Written Statement
23. Failure To Present Written Statement Called For By The Court
24. Framing Of Issues
25. Order Where Parties Are Not At Issues
26. Appearance Of Parties And Consequences Of Non-Appearance
27. Summoning Of Witnesses
28. Grant Of Time And Adjournment Of Hearing
29. Right To Begin Proceeding
30. Statement And Production Of Evidence
31. Method Of Recording Evidence
32. Recall Of A Witness
33. Inspection By Court
34. Pronouncement Of Order

- 35. Signing Of Order
- 36. Statement Of Decision On Each Issue
- 37. Compromise Of Suits
- 38. Finality Of Order
- 39. Costs
- 40. Contents Of The Decree
- 41. Certified Copies Of Order, Decree, Etc., To Befurnished
- 42. Execution
- 43. Communication Of Fact Of Execution Or Otherwise

CHAPTER 3 :- Fees and Costs

CHAPTER 4 :- Miscellaneous

- 47. Provisions In The Code Of Civil Procedure 1908 (V Of 1908),Etc., To Apply

Tamil Nadu Employees Insurance Courts Rules, 1951

In exercise of the powers conferred by Section 96 of the Employees' State Insurance Act, 1948 (Central ActXXXIV of 1948). His Excellencythe Governor of Madras hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section:-

CHAPTER 1

Employees' Insurance courts

1. Short Title And Commencement :-

- (1) These rules may be called the Tamil Nadu Employees Insurance Courts Rules, 1951.
- (2) They extend to those scheduled areas to whhich the Act hasbeen or may hereafter be applied under the Constitution.
- (3) They shall come into force on such date as the Government may,by notification in the Fort St. George Gazette, appoint.

2. Definitions :-

In these rules unless there is anything repugnantin the subject or context :-

- (a) "Act" means the Employees State Insurance Act, 1948(Central Act XXXIV of 1948);
- (b) "Court" means an Employees Insurance Court constituted underSection 74;
- (c) "Form" means a form appended to these rules;
- (d) "Government" means the Government of Tamil Nadu;
- (e) "Section" means a section of the Act;

(f) All other words and expressions used herein and not defined shall have the meanings respectively assigned to them by the Act.

3. Composition Of The Court And Place Of Sitting :-

(1) A Court shall ordinarily consist of one Judge; Provided that the Government may, after consultation with the Corporation, by notification in the Fort St. George Gazette, appoint two or more Judges to a Court for any particular proceeding or class of proceedings and for such period as may be specified in the notification.

(2) Subject to the provisions of rule 6, a Court shall sit at such place or places and at such time as the Government may, after consultation with the Corporation, from time to time specify.

4. Constitution Of The Presiding Officer Of A Civil Or Criminal Court As A Court :-

The Government may constitute the Presiding Officer of any Civil or criminal Court in the State as a Court for the purpose of the Act and such presiding officer shall thereupon discharge the functions of the Court in addition to his own duties.

Provided that the Government may constitute the Madras City Civil Court, as a Court for the purpose of the Act.

5. Distribution Of Business Where There Are More Courts Than One :-

Where more than one Courts are constituted for the same local area, the State Government may, after consultation with the Corporation, by a general or special order, distribute business among them.

6. Fixing Of Time Of Sitting, Etc., Where There Is One Court For Two Or More Local Areas :-

(1) Where one Court is constituted for two or more local areas, the Court shall, subject to the approval of the Government, appoint the time at which the Court shall sit in respect of each local area or in respect of any class of proceedings under the Act.

(2) A notice of the time appointed under sub-rule (1) shall be published in such manner as the State Government may, from time to time, direct.

7. Procedure Where There Are More Judges Than One :-

- (1) Where more than one Judge has been appointed to a Court, the Government shall specify their rank and precedence.
- (2) The senior Judge for the time being shall, from time to time, make such arrangement, as he thinks fit, for the distribution of business of the Court among the Judges thereof.
- (3) When two or more Judges, sitting together, differ on any question, the opinion of the majority of such Judges shall prevail : where there is no majority, the opinion of the senior most Judge shall, unless the State Government otherwise directs, prevail.

8. Abolition, Etc., Of A Court :-

The Government may, with the consent of the Corporation, by notification in the Fort St. George Gazette abolish any Court or by a like notification alter the jurisdiction of any Court.

9. Appointment, Salaries, Allowances, Etc :-

- (1) The State Government may appoint a person qualified under Section 74 to be a Judge of a Court.
- (2) A Judge shall receive such salary and allowances as the State Government may, after consultation with the Central Government, from time to time, determine.
- (3) A Judge shall receive dearness allowance, compensatory (City) allowance, house-rent and other allowances, at such rates and subject to such conditions as are applicable to officers of the Government of a corresponding rank stationed at the same place. A Judge shall be entitled to leave and leave salary under the leave rules which may, from time to time, be applicable to other Government servants of similar status and drawing similar emoluments.
- (4) A Judge shall be entitled to allowance for journeys performed on official business in accordance with the scale applicable to the class of officers to which in the opinion of the Government, such Judge belongs.
- (5) A Judge shall be subject to such other conditions of service as the Government may, after consultation with the Central Government, determine.
- (6) Notwithstanding anything contained in sub-rules (2) to (5), the pay, allowances, and other conditions of service of a Judge, if he is a person already in the service of the Government, shall be such as

the Government may, with the approval of the Central Government, by a general or special order, from time to time, determine.

(7) Where the State Government confers the powers of a Court on the Presiding Officer of a Civil or Criminal Court, the Presiding Officer may be paid such additional allowance as the State Government may, after consultation with the Central Government, determine.

10. Appointment Of Other Officers And Subordinate Staff :-

(1) The State Government may, with the consent of the Corporation, appoint such ministerial officers and other subordinate staff as may be necessary for the exercise and performance of the powers and duties conferred and imposed on a Court by or under the Act.

(2) The ministerial officers and the subordinate staff of a Court shall exercise such powers and discharge such duties as the Judge, or, if there are more Judges than one, the senior Judge may, subject to any order of the Government, from time to time, direct.

(3) The ministerial officers and the subordinate staff of a Court shall be subject to such conditions of service and draw such salaries and other emoluments and receive such benefits as may be fixed by the State Government after consultation with the Central Government.

11. Administrative Control Of The High Court :-

A Court shall be subject to the administrative control and superintendence of the High Court, and shall :-

(a) keep such registers, books and accounts as the High Court may, from time to time, direct; and

(b) comply with such requisitions as may be made by the High Court or the Government for submission of service records, returns and statements, in such forms and in such manner as the authority making the requisition directs.

12. Seal :-

A Court shall keep a seal of such size, dimensions and design as the Government may direct.

CHAPTER 2

Procedure and Execution of orders

13. Application :-

(1) Every proceeding under Section 75 shall be instituted by the presentation of an application to the Court.

(2) Every such application shall be verified in the same manner as a pleading in a Civil Court and shall be accompanied by two copies thereof.

(3) An application under Section 77 shall be presented in Form I, shall be duly stamped in accordance with these rules, and shall contain the following particulars :-

(i) The name of the Court in which the application is brought;

(ii) the full name including the father's name, description including age, occupation and place of residence of the applicant;

(iii) the full name including the father's name, description including age, occupation and place of residence of the opposite party so far as they can be ascertained;

(iv) where the applicant or the opposite party is a minor or a person of unsound mind, a statement to that effect and the full name, age, occupation and address of his or her next friend or guardian;

(v) the facts constituting the cause of action and the date when it arose;

(vi) the facts showing that the Court has jurisdiction;

(vii) particulars giving the address within the jurisdiction of the Court at which notice of summons may be served on the applicant; and

(viii) the relief which the applicant claims.

(4) The Court may summarily reject an application, if it is not in accordance with sub-rule (2).

14. Production Of Documents :-

(1) When any application is based upon a document, the document shall be appended to the application.

(2) Any other document, which any party desires to tender in evidence shall be produced at or before the first hearing.

(3) Any document which is not produced at or within the time specified in sub-rule (1) or (2), as the case may be, shall not, without the permission of the Court, be admissible in evidence on behalf of the party who should have produced it.

(4) All such documents shall be accompanied by an accurate list thereof prepared in the manner prescribed in Form 2.

(5) Nothing in this rule shall apply to any document which is produced for the purpose of cross-examining a witness or is

handed to a witness to refresh his memory.

15. Register Of Applications :-

All applications shall be entered in a register in Form 3 called the Register of Proceedings. Such entries shall be serially numbered for every calendar year according to the order in which the applications are presented.

16. Place Of Suing :-

In case not falling under sub-section (1) of Section 76, a proceeding against any person shall be instituted in the Courts within the local limits of whose jurisdiction -

(a) the opposite party or each of the opposite parties where there are more than one, at the time of commencement of the proceedings, actually and voluntarily resides, or carries on business, or personally works for gain, or

(b) any of the opposite parties, where there are more than one at the time of the commencement of the proceeding, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case, either the leave of the Court is given, or the opposite parties who do not reside, or carry on business or personally work for gain, as aforesaid, acquiesce in such institution, or

(c) the cause of action, wholly or in part, arose.

17. Limitation :-

(1) Every application to the Court shall be brought within three years from the date on which the cause of action arose or, as the case may be, the claim became due :

Provided that the Court may entertain an application after the said period of three years if it is satisfied that the applicant had sufficient reasons for not making the application within the said period.

(2) Subject as aforesaid, the provisions of Parts II and III of the Indian Limitation Act, 1908 (Central Act IX of 1908), shall, so far as may be, apply to every such applications.

18. Applications Presented To Wrong Court :-

(1) Where, on receiving an application, it appears to the Court that it should be presented to another Court, it shall return it to the

applicant after endorsing upon it the dates of the presentation and return, the reason for returning it and the name of the Court to which it should be presented.

(2) Where it appears to the Court at any stage subsequent to the presentation of an application, that the application should have been presented to another Court in the same State, the first mentioned Court shall send the application to the Court empowered to deal with it and shall inform the applicant (and the opposite party, if he has received a copy of the application under rule 19), accordingly.

(3) The Court to which an application is transferred under sub-rule (2) may continue the proceeding as if the previous proceeding or any part of it had been taken before it, if it is satisfied that the interests of the parties will not thereby be prejudiced.

19. Issue Of Summons :-

(1) On receiving an application, the Court shall ordinarily within three days thereof, cause to be sent to the party from whom the applicant claims relief (hereinafter referred to as the "opposite party"), a summons in Form 4 or Form 5, as the case may be, to appear and answer the application on a day, not later than fifteen days from the date of issue of such summons :

Provided that no such summons shall be issued when the opposite party has appeared at the presentation of the application and admitted the applicant's claims.

(2) A copy of the application shall also be sent along with the summons under sub-rule (1).

20. Service Of Summons Or Notice :-

(1) A summons or notice may, on payment of the required fee, be sent by the Court by which it is issued, either by registered post or in such other manner as the Court thinks fit.

(2) Where the Court is satisfied that there is reason to believe that the opposite party is avoiding service or that for any reason the summons or the notice cannot be served in the ordinary way, the Court shall order the summons or the notice to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house in which the opposite party is known to have last resided or carried on business or personally worked for gain, or in such other manner as the Court thinks fit and such services shall be as effectual as if it

had been made on the opposite party personally.

(3) Where a summons or notice is served under sub-rule (2), the Court shall fix such time for the appearance of the opposite party as the circumstances of the case may require.

21. Additional Matters In The Summons :-

The Court shall determine at the time of issuing the summons, whether it shall be for the settlement of the issues only or for the final disposal of the application, or for both the summons shall contain a direction accordingly; the Court may also call upon the parties to produce upon that date any evidence which they wish to tender.

22. Written Statement :-

(1) The opposite party may, and if so required by the Court, shall, at or before the first hearing or within such time as the Court may permit, present a written statement of his defence along with the documents on which he relies and an accurate list thereof in Form 2.

(2) Every such written statement shall be verified in the same manner as a pleading in a Civil Court and shall be accompanied by two copies thereof.

(3) In every written statement submitted under sub-rule (1), the opposite party shall deal specifically with each allegation of fact alleged by the applicant, of which he admits or does not admit or denies the truth. The written statement must also contain all matters which show that the application is not maintainable and all such grounds of defence as, if not raised, would be likely to take the applicant by surprise or would raise issues of fact not arising out of the application as for instance, fraud, undue influence or coercion, release, payment, performance or facts showing illegality of the transaction.

23. Failure To Present Written Statement Called For By The Court :-

Where any party from whom written statement is required fails to present the same within the time prescribed by the Court, the Court may pronounce judgment against it or make such order in relation to the proceeding as it thinks fit.

24. Framing Of Issues :-

(1) At the first hearing of the application, after the summons is served, the Court shall, after considering the application and the written statement, if any, or after such examination of the parties or any person or any document as may appear necessary, ascertain upon what material proposition of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues upon which the right decision appears to depend.

(2) In recording the issues, the Court shall distinguish between those issues which in its opinion concern points of fact and those which concern point of law.

(3) The Court may, in like manner, at any time before passing its final order add to, strike out from or in any way amend the issues on such terms as it may think fit.

25. Order Where Parties Are Not At Issues :-

Where at any hearing of the case it appears that the parties are not at issue on any question of law or of fact, the Court may at once pronounce its final order.

26. Appearance Of Parties And Consequences Of Non-Appearance :-

(1) On the day fixed in the summons for the opposite party to appear and answer, the parties shall be in attendance at the Court in person or by their respective legal practitioners or any other person authorized under Section 79 and the application shall then be heard unless the hearing is adjourned by the Court.

(2) When neither party appears when the application is called on for hearing, the Court may make an order that the application be dismissed.

(3) Whether the opposite party appears and the applicant does not appear when the application is called on for hearing, the Court shall make an order that the application be dismissed unless the opposite party admits the claim, or part thereof, in which case the Court shall make an order against the opposite party upon such admission and where part only of the claim has been admitted, it shall dismiss the case so far as it relates to the remainder.

(4) Where the applicant appears and the opposite party after receiving the summons fails to appear when the application is called on for hearing, the Court may proceed ex parte.

(5) Where the application is wholly or partly dismissed under sub-

rule (2) or (3), the applicant may within thirty days of such dismissal apply in Form 6 for an order to set the dismissal aside and the Court shall, if it is satisfied that he was prevented from appearing when the proceeding was called on for hearing due to any sufficient cause make an order setting aside the dismissal upon such terms as to costs or otherwise as it thinks fit and may proceed with the case or appoint a day for proceeding with the same :

Provided that no order under this sub-rule shall be made in respect of an application which is dismissed under sub-rule (3) unless notice of the application has been served in Form 7 on the opposite party.

(6) In any application in which an ex parte order has been passed against the opposite party, he may within thirty days from the date of such order apply in Form 6 to the Court which passed the order to set it aside and if the Court is satisfied that he was prevented from appearing when the proceeding was called on for hearing due to any sufficient cause, it shall after servicing notice thereof to the applicant in Form 7 make an order setting aside the order upon such terms as to costs or otherwise as it thinks fit and may proceed with the hearing of the case or appoint a day for proceeding with the same.

27. Summoning Of Witnesses :-

(1) At any time after the framing of the issues, the Court may call upon the parties to produce their evidence in support of the issues.

(2) The Court may, on the application of either party, issue a summons in Form 8 to any witness directing him to attend or to produce any document.

(3) The Court may, before summoning any witness on application under sub-rule (2), require that his reasonable expenses to be incurred in attending the Court be deposited with it.

28. Grant Of Time And Adjournment Of Hearing :-

(1) The Court may, if sufficient cause is shown, at any stage of the application, grant time to the parties or to any of them, and may, from time to time, adjourn the hearing of the application.

(2) In every such adjournment, the Court shall fix a day not exceeding fifteen days from the date on which such adjournment is made for further hearing of the application and may make such order as it thinks fit with respect to the costs occasioned

by the adjournment :

Provided that when the hearing of the evidence has once begun the hearing of the application shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing beyond the following day to be necessary for reasons to be recorded.

29. Right To Begin Proceeding :-

The applicant has the right to begin unless the opposite party admits the facts alleged by the applicant and contends that, either in point of law or on some additional facts alleged by the opposite party, the applicant is not entitled to the relief which he seeks, in which case the opposite party has the right to begin.

30. Statement And Production Of Evidence :-

(1) On the day fixed for the hearing of the application or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

(2) The other party shall then state his case and produce his evidence, if any, and may then address the Court generally on the whole case.

(3) The party beginning may then reply generally on the whole case.

31. Method Of Recording Evidence :-

The evidence of each witness shall be taken down in writing by the Judge or where there is more than one Judge, by the junior Judge, in the language of the Court, not ordinarily in the form of question and answer, but in that of a narrative, and when completed shall be read over or translated, where necessary, in the presence of such Judge to the witness, and such Judge, shall, if necessary, correct the same and sign it.

32. Recall Of A Witness :-

The Court may at any stage of a proceeding recall any witness who has been examined any may (subject to the law of evidence for the time being in force) put such questions to him as the Court thinks fit.

33. Inspection By Court :-

The Court may at any stage of a proceeding inspect any property or thing concerning which any question may arise.

34. Pronouncement Of Order :-

The Court, after the application has been heard, shall pronounce its final order in open Court, either at once or on some future day, of which due notice shall be given to the parties.

35. Signing Of Order :-

The final order shall be dated and signed in open Court at the time of pronouncing it and, when once signed, shall not afterwards be altered or added to, save in the case of clerical or arithmetical mistake arising from any accidental slip or omission.

36. Statement Of Decision On Each Issue :-

In cases in which issues have been framed, the court shall state its finding or decision, with the reason therefor, upon each separate issue, unless the findings upon any one or more of the issues is sufficient for the decision of the case.

37. Compromise Of Suits :-

Where it is proved to the satisfaction of the Court that a case has been adjusted wholly or in part by any lawful agreement or compromise, or where the opposite party satisfies the applicant in respect of the whole or any part of the subject matter of the case, the Court shall order such agreement, compromise or satisfaction, to be recorded, and shall pass a final order in accordance therewith so far as it relates to the case.

38. Finality Of Order :-

Save as provided in Section 82 the order of a Court shall be final and binding upon the parties.

39. Costs :-

(1) The costs of and incidental to the application shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent

such costs are to be paid, and to give all necessary directions for the purposes aforesaid. The fact that the Court has no jurisdiction to try the case shall be no bar to the exercise of such powers.

(2) Where the Court directs that any cost shall not follow the event, the Court shall state its reason in writing.

40. Contents Of The Decree :-

(1) A decree in Form 9 shall be prepared in conformity with the order made by the Court; it shall contain the number of the application, the names and descriptions of the parties, and particulars of the claim, and shall specify clearly the relief granted or other determination of the proceedings.

(2) The decree shall also state the amount of costs incurred in the proceeding and by whom and in that proportions such costs are to be paid.

(3) The Court may direct that the costs payable to one party by the other shall be set off against any sum which is admitted or found to be due from the former to the latter.

41. Certified Copies Of Order, Decree, Etc., To Be furnished :-

(1) Certified copies of the final order, decree or any other order or matter on record shall be furnished to the parties on application to the Court and at their expense.

(2) If any party requires copies of any order, decree or any other matter or record made by or furnished to the Court, as the case may be, to be supplied to him within forty eight hours of the submission of an application therefor to the Court, he shall pay an additional fee of two rupees for each such copy.

(3) If any party applies for copies of any order, decree or any other matter or record made or furnished to the Court, as the case may be, after the expiry of twelve months from the date of such making or furnishing, as the case may be, he shall pay an additional searching fee of two rupees.

42. Execution :-

(1) Any person in whose favour an order has been passed shall, within one year from the date of the order, apply in Form 10 to the Court which made the order for its execution.

(2) On such application being made, the Court shall send the

same together with the necessary record to a Civil Court, of competent jurisdiction, for its execution and such Civil Court shall have the same power in executing such order as if it has been passed by it.

43. Communication Of Fact Of Execution Or Otherwise :-

The Civil Court to which a decree is sent for execution shall certify to the Court which passed it, the fact of such execution or where that Court fails to execute the same, the circumstances attending such failure.

CHAPTER 3

Fees and Costs

CHAPTER 4

Miscellaneous

47. Provisions In The Code Of Civil Procedure 1908 (V Of 1908), Etc., To Apply :-

In respect of matters relating to procedure or admission of evidence for which no specific provision is made in the rules, the provisions of the Code of Civil Procedure, 1908, (V of 1908) including the rules made thereunder and the Indian Evidence Act, 1872 (1 of 1872) shall, so far as may be, apply to proceedings under the Act.