

## **A PROPOSAL TO PRESCRIBE A UNIFORM COURT FEE ON CIVIL SUITS AND APPEALS FILED FOR RECOVERY OF COMPENSATION OR DAMAGES UNDER THE FATAL ACCIDENTS ACT, 1855**

It has been brought to the notice of the Pakistan Law Commission that the legal heirs of the deceased victims of accidents have, in order to recover the amount of compensation or damages payable to them from the drivers, employers or the Insurance Companies, under the provisions of the Fatal Accidents Act, 1855, to file civil suits in the Courts of competent jurisdiction either after payment of ad valorem court fee or by prosecuting their suits in forma pauperis. In the former case the legal heirs of the deceased, particularly those who come from the poor or the middle classes of the society, face considerable hardship as they cannot afford to pay ad valorem court fee for their claims and they have either to reduce the amount of the claim rateably or arrange for the payment of full court fee with a good deal of difficulty; while in the latter case the preceding enquiry into their pauperism takes quite a long time with the result that the main suit for compensation or damages drags on for a number of years before being finalised.

2. It has also been brought to the notice of the Commission that in the year 1975, the Government of Sind had, in order to avoid hardship to the affected families, made a provision in the Court Fees Act, 1870, by adding an article to the Second Schedule thereof, prescribing a fixed court fee of Rs.15/- for all such proceedings, irrespective of the amount of the claim involved. This amendment proved to be a source of considerable relief to the poor people of the Province who got their remedy in this respect in a comparatively shorter time and with lesser

cost of litigation. In the other Provinces, however, the plaintiffs are required to pay ad valorem court fee while filing such suits. It, however, appears that the provision relating to payment of uniform court fee in such proceedings was lost sight of in Sind also at the time of promulgation of Sind Finance Ordinance, 1979, with the result that, like other Provinces, ad valorem court fee is payable in such proceedings in Sind as well.

3. The Law Commission is of the view that the law in this respect should afford the maximum relief to the affected families within the minimum possible period and cost and that it should be uniform in all the Provinces.

4. The object mentioned in the preceding paragraph can be achieved in two ways, viz:-

(a) as the Law relating to Court Fees is a Provincial subject, a recommendation can be made to all the Provincial Governments to suitably amend the provisions of the Court Fees Act on the analogy of the steps taken by the Government of Sind in 1975, prescribing a uniform court fee of Rs.15/-, or so, in respect of proceedings instituted for recovery of the amount of compensation or damages payable under the Fatal Accidents Act, 1855, irrespective of the amount of the claim involved. This step can be taken by adding the following article in Schedule-II of the Court Fees Act, 1870:-

"Plaint or a Memorandum of Appeal for recovery of Rs. 15/- or any compensation or damages under the Fatal Accidents other suitable Act, 1855, amount.

or

- (b) The Federal Government may make a suitable amendment in the Fatal Accidents Act, 1855, itself by adding a new Section 3(A) to the following effect:

"3-A The plaint or a Memorandum of Appeal in any such action suit or appeal shall bear court fee stamps of Rs.15/- or any other suitable amount irrespective of the amount of the claim involved.	Court Fee payable by the plaintiff or the appellant.
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5. The Law Commission also recommends that a very early action may be taken in the matter by the Governments concerned.