

# **KERALA STATE ROAD TRANSPORT CORPORATION**

## **TERMS AND CONDITIONS FOR APPOINTMENT OF STANDING COUNSEL FOR MACTS AND OTHER JUDICIAL FORUMS**

1. Standing Counsel shall not either directly or through partners of his firm, if any, accept any Vakalath for conducting any case against the Corporation. Vakalath already accepted in such cases shall be relinquished immediately.
2. He shall appear before any Court of Law or Quasi-Judicial fora in all cases entrusted to him by the Corporation and arrange defence for and on behalf of it and its officers including driver and conductor. In cases where the presence of any Officer including driver and conductor is required the Standing Counsel shall intimate the same through the concerned Unit officer/ Law Officer as early as possible.
3. He shall do all needful to protect the genuine interest of the Corporation in all cases entrusted with. If he feels any inconvenience in attending to any of such cases the same shall be intimated to the Unit officer of the nearest Unit/ Law Officer of the Corporation in writing sufficiently early. In such an event if the Corporation is unable to post a substitute in his place, he shall arrange alternate arrangement for the conduct of that case. He shall see that none of the cases of the Corporation entrusted with him has been decided ex-parte under any circumstance causing loss of public money.
4. He shall call for all records and other details required for the proper conduct of the cases from the nearest Unit Officer. If the details are neither furnished nor the witnesses called for turn up in time the same shall be intimated to the Law Officer of the Corporation immediately. However in cases where the documents called for are not available with the Corporation and the same is available only in the records of the Court the same shall be collected by filing necessary applications. Expenses met by him for such purpose will be paid by the Corporation later.

*Signature of the Standing Counsel*

5. While drafting written statement, it shall be ensured that reply to all averments mentioned in the petition are covered after verifying the relevant records and pleas required to safeguard the interest of the Corporation are incorporated.
6. The criminal case records viz. FIR, Scene Mahazar, AMVI's report, wound certificate / Post-mortem report, Charge Sheet, etc. shall be verified and reliance shall be placed on the points therein in favour of the Corporation while arranging the defence. If such records may strengthen our defence, certified copies of Police Records shall be obtained from the Criminal Court or the Police Station concerned and produce before MACT. In collision cases, the aspect of contributory negligence shall be considered in case our vehicle is at fault. Otherwise total denial of our liability should be raised and the Unit Officer shall be advised to file counter claim.
7. He shall also arrange for filing claim petitions and counter claims before Tribunals, Courts, etc. in cases where he finds it necessary and in cases where the Officers of the Corporation request for.
8. Provision shall be made in the written statement reserving the right of the Corporation to file additional written statement as and when new facts are brought to notice.
9. Pleadings for joint trial shall be made in cases arising out of the same accident.
10. On pronouncement of an award, order or judgment it shall be communicated to the Corporation in time in writing, and immediately thereafter shall obtain it's free or carbon copy and forward it with his learned opinion regarding scope for appeal. List of all cases disposed in a month shall also be forwarded to the nearest unit office before 5<sup>th</sup> day of the succeeding month.
11. In cases where appeals are to be filed certified copy of the award, order or judgment shall be sent to the Chairman & Managing Director alongwith legal opinion to enable the Corporation to take a decision for filing appeal. It shall be seen that if a case is fit for appeal, the appeal shall be filed within the prescribed limitation period. Under any circumstances the Corporation should

*Signature of the Standing Counsel*

not lose an opportunity to file an appeal due to non-receipt of certified copy of Judgement and other connected records in time.

12. Execution Petitions filed against the Corporation for executing the awards shall be watched closely and our position objected based on the available grounds. The eligibility of the E.P amount including the cost and expenses claimed shall be verified and objection filed if necessary. For filing objection and closing the EP an amount of Rs. 500/- towards fee will be paid. It shall be the duty of the Standing Counsel to see that no coercive steps such as attachment of vehicles or issuance of warrant is effected against the Corporation without bringing to the notice of the Corporation and ensure that the EP has been closed for full and final satisfaction of award.
13. He shall not settle any cases of the Corporation on compromise without the prior and specific sanction from the Corporation. The settlement of cases shall not be considered unless the required documents to prove negligence, income, expenses, etc. and criminal case records are made available.
- 13 (A) He shall not make any undertaking or consent before any authority or court without prior permission of competent authority of the Corporation in writing.
14. He shall give advice to the Unit Officers and other Officials of the Corporation who may approach for legal advice on matters concerned with the Corporation.
15. On request, he shall attend the Regional Transport Authority meetings of the respective area along with the Unit Officer concerned and present the case effectively so as to safe-guard the interest of the Corporation.
16. The Corporation shall be at liberty to specially engage any other Advocate for conducting any particular case of the Corporation if found necessary to do so.
- 16(A) At the time of appointment case files shall be received with due acknowledgement from the Unit Officer and on termination the same shall be returned to the Unit Officer with acknowledgement.
17. The Standing Counsel shall maintain a register showing the details of the files received from the K.S.R.T.C. and also the updated position of the cases.

*Signature of the Standing Counsel*

18. The Corporation shall pay the legal fees and expenses as per the existing schedule furnished below:

❖ **Conduct of cases before the Claims Tribunals and fee for such cases.**

For arranging defence on behalf of the Corporation and the employees concerned:

For Conducting cases before MACTs the fee shall be Rs. 2500/-.

Rs.1000/- will be payable at the time of filing of Written Statement and the balance within one month from the date of receipt of copy of award, provided the same is made available to the Corporation within 3 weeks from the date of pronouncement. In cases where the buses involved in the accident are insured it shall be the duty of the Standing Counsel to implead the insurance company also. The legal fee shall not be paid if there is any failure on the part of the Standing Counsel.

In addition to the above, in cases where additional filings and expenses are to be met for taking copies of the judgement, awards, deposition of witnesses etc. the actual expenses will be paid against proper detailed bill.

**For appearance before the Regional and State Transport Authority.**

Rs. 500/- per day will be paid for conducting cases in RTA & STA irrespective of number of items.

❖ **For conduct of Civil and Criminal cases.**

a) For the conduct of Civil and Criminal cases in subordinate courts & District Courts fee will be paid at the rates prescribed by the Government from time to time.

b) Office expenses up to a maximum of Rs.150/- per case shall be paid towards cost of filing Vakalath, typing, clerical and other incidental charges.

❖ **For conduct of cases before the Labour Court**

Rs.500/- per day for effective appearance subject to a maximum of Rs.2000/- per case [Appeal, Revision Petition etc.] involving substantially identical question of law are heard together and disposed of by a common judgement, the maximum fee payable for such batch of cases shall not exceeds Rs.2000/- irrespective of the number of cases. Office expenses including cost of filing

*Signature of the Standing Counsel*

Vakalath, typing, clerical charges, etc. will be paid up to a maximum of Rs.150/- per case.

❖ **For conduct of cases before the Industrial Tribunal**

Rs.500/- per day for effective appearance subject to a maximum of Rs.3000/- per case [Appeal, Revision Petition etc.] involving substantially identical question of law are heard together and disposed of by a common judgement, the maximum fee payable for such batch of cases shall not exceed Rs.2000/- irrespective of the number of cases. Office expenses including cost of filing Vakalath, typing, clerical charges, etc. will be paid up to a maximum of Rs.250/- per case.

❖ **For conducting cases at CDRF**

Rs.1000/- per case + Rs.250/- towards filing charges, typing etc.

But for a suit compromised, settled or withdrawn or is decided solely on the admission of the parties without any investigation or is decided exparte or dismissed for default of other party before any evidence is recorded; the fee payable shall be one half of the fee prescribed.

❖ **For conducting cases at CDRC**

Rs.3000/- per case + Rs.500/- towards filing charges, typing etc.

But for a suit compromised, settled or withdrawn or is decided solely on the admission of the parties without any investigation or is decided exparte or dismissed for default of other party before any evidence is recorded; the fee payable shall be one half of the fee prescribed.

**For Conducting cases before KSRTC Appellate Tribunal.**

A maximum of Rs.2000/- per case [Appeal, Revision Petition etc.] involving substantially identical question of law are heard together and disposed of by a common judgement, the maximum fee payable for such batch of cases shall not exceeds Rs.2000/- irrespective of the number of cases. Office expenses including cost of filing Vakalath, typing, clerical charges, etc. will be paid up to a maximum of Rs.250/- per case.

**For Conducting cases before the Lok Ayukta.**

Rs.500/- per effective appearance subject to a maximum of Rs.2000/- per case [Appeal, Revision Petition etc.] involving substantially identical question of law are heard together and disposed of by a common judgement, the maximum fee payable for such batch of cases shall not exceeds Rs.2000/- irrespective of the number of cases. Office expenses including cost of filing Vakalath, typing, clerical charges, etc. will be paid up to a maximum of Rs.250/- per case.

**Transfer of case files, and payment of fees:-**

During transfer of cases from one counsel to another fee will be apportioned in such a manner that half fee and expenses for filing written statement and the remaining for trial, argument and production of copy of award with opinion on scope for appeal. The decision of the Corporation in apportionment of fee will be final.

19. The Managing Director of the Corporation is vested with every right to delete the name of any Advocate from the panel or terminate him from the position of Standing Counsel without showing any reason. When an Advocate is deleted from the panel, he is duty bound to return immediately all the case files and records with proper acknowledgement to enable the Corporation to engage other Advocates from the panel. The case files and records shall under no condition be retained as a lien for the purpose of realising fees from the Corporation. The decision of the Managing Director shall be final.
20. Liability of Standing Counsels to pay damages in certain cases: - A person appointed as Standing Counsel shall conduct the cases carefully and efficaciously so as to safeguard interest of the Corporation and in case of any default, he shall be liable to pay the Corporation, even after he ceases to be a Standing Counsel, damages equal to the loss or injury incurred or sustained by the Corporation as a result of his carelessness, negligence or other misconduct in conducting any case or safeguarding interest of the Corporation.

*Signature of the Standing Counsel*

21. The performance of the Standing Counsels shall be monitored and evaluated by the Corporation in every three months and if the performance of the Standing Counsel is found not satisfactory, his service shall be terminated as Standing Counsel and will not be considered for future appointment.
22. The appointment will not confer on the Standing Counsel any right for future appointment.
23. The travelling pass issued to the Standing Counsels at the time of appointment shall be surrendered to the Unit Officer, by the Standing counsel soon on termination of appointment. If any penalty is assessed for non-surrendering of travelling pass issued by the Corporation such amount shall be recovered from the arrear of fee payable to the Standing Counsels or as per the provisions of RR Act.
24. If all the above conditions are acceptable, one copy of this document sent in duplicate shall be returned after endorsing the acceptance hereunder

**Declaration**

Signature :

Name :

Address Seal :

Date :

Enrolment No :  
(A copy of the  
certificate to be  
enclosed)

Enrolment Date :

I .....hereby agree with all the above conditions to the best of my knowledge and belief. I will do my service at the best to protect or safeguard the interest of the Corporation.

*Signature of the Standing Counsel*