

ESI CORPORATION, SUB REGIONAL OFFICE, COIMBATORE

TERMS AND CONDITION FOR PANEL ADVOCATES.

A. Terms for Empanelment of Counsels:

1. The Counsels will be empanelled for conducting the cases in which the Employees' State Insurance Corporation is a party. The cases will be assigned to them on a case basis as may be entrusted to them and the Counsel would be required to conduct the cases to its finality.
2. The Counsels would be on the panel ordinarily for a period of three years and continue with the cases allotted to them even beyond 3 years unless terminated before 3 years. They may be removed from the panel earlier than the time stipulated on immediate notice on either side without assigning any reason thereof.

B. Allocation of cases to the Counsels:

The cases will be allocated to the Counsels on the panel on a case to case/roster basis or region / area basis by the Sub Regional Office, ESI Corporation, Coimbatore or by any other authorized office to do so.

C. Duties of the Counsels on the Panel:

1. The counsel shall appear in the Labour / EI Court, Magistrate Court and District Consumer Forum at location for which he/she is designated.
2. Advise the ESI Corporation on matters incidental to such litigation and when the case attended by him/her is decided against the ESI Corporation/Government and/or its officers, written Legal opinion regarding the advisability of filing an appeal from such a decision shall be given.
3. Render all assistance to Sub Regional office, Coimbatore through its Legal Branch, Social Security Officer (Legal) and Branch Office Managers, if required to do so.
4. Keep this office informed the developments of the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the cases, supply of copies of judgements etc.
5. Perform such other duties of legal nature, which may be assigned to him by this office from time to time.

D. Right to private Practice and Restrictions:

1. A Counsel empanelled with the ESI Corporation will have the right to private practice which should not, however, interfere with the efficient discharge of his/her duties as a Counsel for the ESI Corporation.
2. A counsel shall not advise any party or accept any case or brief against the ESI Corporation in which he/she has appeared / or likely to appear which is likely to affect or lead to litigation against the ESI Corporation.
3. If the counsel happens to be Partner of a firm of Lawyers or Solicitors, it will be incumbent on the firm not to take up any case against the ESI Corporation in any courts or any case arising in other courts out of these case (e.g) appeals / revisions in the High Court or Supreme Court or other courts or tribunals.

E. Procedure for Empanelment

1. The applicant advocate must apply in such form/format as may be prescribed by ESIC. No other format will be entertained.
2. Any application received after the last date prescribed in the advertisement shall not be entertained.
3. Depending upon the requirement and number of applications received, ESIC reserves the right to shortlist the candidates to be called for Interaction and to be empanelled.
4. Merely fulfilling the eligibility criteria will not confer any right on an applicant advocate to be called for Interaction and to be selected.
5. The decision of the competent authority regarding short listing and selection of the candidates shall be final.
6. Canvassing in any form shall be treated as disqualification. The candidature of such applicants shall be rejected forthwith.
7. The date-time, venue and mode of interaction shall normally be communicated by E-mail or letter. In exceptional circumstances SMS etc. may be used as additional form of communication.
8. The applicant advocate may be required to bring original documents at the time of interaction.
9. The applicant advocates selected for empanelment may be issued electronic or written communication by ESIC.

F. Selection Committee

- i. There shall be a two-level committee for selection of empanelment -
 - a. One, for short listing of new applicants based on the documents, profile and performance of the Advocates.
 - b. Second, for interacting in interviews and selecting advocates from the short list.
- ii. The two-level Committee for empanelment at ESIC Hqrs shall consist of the following members.
 - a. First level Committee-Comprising of Joint Director (Legal) and Social Security Officer.
 - b. The Second level Committee- The Joint Director (In-charge) and Deputy Director (Legal). A special invitee in the field shall be co-opted with the permission of the Joint Director (In-charge).

The members of both the committees shall be nominated by the Deputy Director (In-Charge).

G. Documents to be submitted by the Advocate

The Advocates will be required to furnish following documents along with the application form:

1. Copy of SSLC and HSC Marksheets
2. Copy of Law Degree and other qualifications;
3. Copy of Valid Registration Certificate Issued by the Bar Council;
4. Copy of Identity Card issued by the Bar Association;
5. Copy of Adhaar Card and PAN Card;
6. Copies of judgments where the Advocate has appeared as pleader;
7. Copies of Empanelment Letter issued by other Authorities/entities in favour of the Advocate;
8. Résumé with a brief profile of experience, background, education, list of clients and nature of cases dealt with;
9. Two recent coloured passport size photographs;
10. Copy of Income Tax Returns for last two financial years.
11. Proof of experience of handling labour cases.

H. General Conditions:

1. Applicant Advocates will not absent without prior approval of Competent Authority from appearance in Court for any reason whatsoever.
2. Appeals, Revision or Petition arising from one common judgement or order will be together considered as one case if they are heard together.
3. The Social Security Officer (Legal / Manager of the concerned Branch office / any other officer deputed by the Regional Office) will liaise between the Counsel and the ESI Corporation in all the matters connected with the cases entrusted to the Counsels.
4. Counsel / Advocate will have to represent the ESI Corporation in the EI Court, Magistrate Court, Labour Court, State Consumer Forum, etc., and should be well versed with the ESI Act as well as other related Acts and relevant Codes.
5. Counsel / Advocate should receive the notices meant for the ESIC from various Courts and able to handle the cases and appear in such matters in the Courts and ensure that no Ex-parte order is passed against the ESIC.
6. Counsel / Advocate should able to handle the cases, which are assigned to them and appear in such assigned cases in the Courts and should also prepare Written Statement, Appeal Memo, Application etc. and also provides legal opinion to the ESI Corporation. Advocate will look after and advice the ESI Corporation on legal matters including Filing / Defending Suits, Petitions and Appeals that may be entrusted to them.
7. Counsel / Advocates should have minimum of 05 years regular practice and standing in the Bar and handled Labour Law related cases.
8. Advocate should not take up any case against ESIC during the period of empanelment and shall not do things prejudicial to the Corporation interest.
9. Advocate empanelled will have to collect and produce the Certified Copy of Judgment and other related orders pertaining to the cases dealt by them within the stipulated time along with legal opinion so as to enable ESIC to proceed further.
10. Advocate entrusted with the cases, should immediately ensure that necessary action is taken for receipts of fine and such other cost of litigation as ordered by the Court and is promptly credited to the ESI Corporation.
11. Applicant Advocates have to adhere to the instructions / guidelines issued by

the ESI Corporation from time to time.

12. A report on progress of Suits / Cases entrusted to the Advocates would be sent to the Legal Branch, Sub Regional Office, Coimbatore every month under a copy to Deputy Director In-Charge Office.
13. Applicant Advocates will not be entitled to any travelling expenses or any miscellaneous allowance for visiting branches or Courts.
14. Applicant Advocates should not use ESI Corporation name or Symbol in Letter Heads, Sign Boards and Name Plate etc.
15. It may be noted that Advocate empanelment does not amount to an appointment or right for an appointment to be made by the ESI Corporation. Corporation is free to engage any advocate of its choice, and no right exists to claim that he/she should alone be entrusted with legal matter of particular case, pertains to the Corporation.
16. When any case attended by the advocate is decided against the ESI Corporation, the Advocate concerned must give considered opinion regarding the reasons for such adverse order and the advisability of filing an appeal from such a decision not later than 5 working days of the order. However, reasons for success may also be forwarded along with final order.
17. The Advocate's opinion would be an input for our decision making. Therefore, we would like to state that in the case, Advocate's opinion turns out to be untrue and factually incorrect, causing loss to ESI Corporation, we may seek such clarification as may be required to investigate the matter and fix the responsibility. In the event it is established that wherever gross negligence on your part causing pecuniary damage / loss to the ESI Corporation, we may recommend your name for including in the caution list for circulation among sister concerns i.e. EPFO etc., including Bar Association.
18. Please note that above empanelment with ESI Corporation is subject to further extension / renewal depending upon the Advocate's performance and service to the satisfaction of the ESI Corporation.
19. Applicant Advocates or their spouse or juniors or partners in their firm should not represent the party in cases against ESI Corporation under any circumstances.
20. The Advocates shall accept the terms and condition of the empanelment as determined by the ESIC from time to time.

21. The Deputy Director In-charge, Sub Regional Office, Coimbatore will be the final authority to assign the cases in various Courts to the empanelled advocates depending upon the requirement/nature of the cases.
22. The fee to counsel will be paid by the Sub Regional Office, ESI Corporation, Coimbatore only on Receipt of Certified copy of Judgment, opinion and collection of Fine / Fee from Court towards ESI Corporation, if any and on presentation of a claim with a Stamped Receipt.
23. Charges for cases withdrawn will be paid as deemed appropriate by the ESI Corporation.
24. Misc. Expenditure including Court Fees shall be paid on actual basis on the submission of bills along with the statements and / or Vouchers.
25. Modification in fee structure shall be applicable as per discretion of the ESIC from time to time.

I. Fee Structure

Advocate will be entitled to reasonable fees as fixed by ESIC Headquarters Office, Delhi and as amended time to time. At present the fee payable to the panel advocates shall be as prescribed by ESIC vide OM No. T-11/12/2/2016-Legal dated 02.01.2017.

Name of the Court	Consolidated Fees (in Rs.)
State Consumer Forum, District and Subordinate Courts and other Tribunals	12,000/-
E.I. Court, Magistrate Court, District Consumer Forum, & Other Courts (including District Court, Munsif Court, Sub Court etc.)	5,000/-
Note: Misc. Expenditure including Court Fees shall be paid on actual basis on the submission of bills along with the statements and / or Vouchers.	

No retainer fee shall be paid to any Panel Advocate merely because such advocate has been empanelled.

J. Cancellation of empanelment

Empanelment of an advocate shall be liable to be cancelled due to occurrence of any of the below mentioned reasons:

1. Giving false information in the application for empanelment;
2. Failing to attend the hearing of the case without any sufficient reason and/or prior information;
3. Not acting as per Not ESIC's instructions or going against specific instructions;
4. Threatening, intimidating or abusing any of the ESIC's Employees, Officers, or representatives;
5. Passing on information relating to ESIC's case on to the opposite parties or their advocates or any third party which adversely affects the ESIC's interests;
6. Giving false or misleading information to ESIC relating to the proceedings of the case;
7. Seeking frequent adjournments or not objecting the adjournment moved by other party without sufficient reason;
8. Frequent absence from the court proceedings even if "pass over" or "proxy" is obtained by an advocate.
9. Poor performance of the panel Advocate as assessed by ESIC Sub Regional Office, Coimbatore.

Further, ESIC reserves the right to terminate the empanelment of a Advocate with one month's notice in writing without assigning any reason. The Advocate may also apply for termination of empanelment by serving one month's notice.

K. Removal of difficulty

In the matter of implementation of these guidelines, if any doubt or difficulty arises or doubt regarding the interpretation of any clause of these guidelines arises, the decision of ESIC shall be final.

L. Relaxation of any Terms and Conditions

The Joint Director (In-charge), Sub Regional Office, ESIC, Coimbatore shall have the power to relax any terms and conditions prescribed.