



भारत सरकार **Government of India**
रेल मंत्रालय **Ministry of Railways**
(रेलवे बोर्ड **Railway Board**)



No. 2020/CE-I/CT/ARB/4E/ArbitrationFee

New Delhi, Dated: 03.04.2023

**The General Managers,
All Indian Railways**

Sub: Payment of fee to the members of Arbitral Tribunal in Arbitration proceedings

A case has come to the notice of Railway Board where fee has been paid to the members of Arbitral Tribunal well beyond the ceiling limit stipulated in Schedule-IV of Arbitration and Conciliation Act, 1996.

2) The fees of court appointed arbitrators are governed by Schedule-IV of Arbitration and Conciliation Act, 1996. As per Section 11 (3A) of Arbitration & Conciliation Act, 1996, "..... the arbitrators appointed by a party shall be entitled to such fee at the rate as specified in the Fourth Schedule". However, vide order dated 17.12.2022, the Hon'ble Supreme Court in the case of ONGC Vs Afcons Gunanusa JV has made it clear that where the parties have fixed the fee by consent, neither the Schedule-IV to the Act nor the model principles of fixation set out in the said decision would apply.

3) In view of the latest judgement of Hon'ble Supreme Court, it is advised that Railways may take conscious decision at the initial stage of Arbitration proceedings itself, whether the fees to be paid to the members of Arbitral Tribunal will be within the ceiling prescribed in Schedule-IV of Arbitration and Conciliation Act, 1996 or otherwise.

4) This issues with the concurrence of Finance Directorate of Ministry of Railways.

(Handwritten signature)
03.04.23
(गौरव)

निदेशक सिविल इंजी.(जी)/रेलवे बोर्ड

[Rly No. 030-47598, MTNL No. 011-23047598]

e-mail address: dceg@rb.railnet.gov.in

No. 2020/CE-I/CT/ARB/4E/ArbitrationFee

New Delhi, Dated: 03.04.2023

Copy forwarded for information to:

(i) The PFAs, All Indian Railways.

(ii) Dy. Comptroller and Auditor General of India (Railways), Room No. 224, Rail Bhawan, New Delhi.

(Handwritten signature)
3/4/23

For Member Finance

