

S.No.	Sum in Dispute	Model Fee
6	Above INR 20,00,00,000/-	INR 19,87,500 plus 0.5 per cent of the claim amount over and above INR 20,00,00,000 with a ceiling of INR 30,00,000.

“Note: In the event the arbitral tribunal is a sole arbitrator, he shall be entitled to an additional amount of twenty-five per cent. on the fee payable as per the above.”

- By an Order dated March 3, 2020 (**Order**), the Tribunal rejected the Application and *inter alia* held as follows:
 - The legislature has specified INR 19,87,500 + 0.5% of the claim amount over and above INR 20,00,00,000 with a ceiling of INR 30,00,000, which means that the ceiling of 30,00,000 is applicable qua claim over and above INR 20,00,00,000.
 - If the claim is more than INR 20,00,00,000 then **in addition to the fixed fee** of INR 19,87,500/- the parties are liable to **pay 0.5% of the claim amount over and above INR 20,00,00,000/- with a ceiling of INR 30,00,000**. The word ‘plus’ appearing in column 3 of Schedule IV is disjunctive and divides the table into two parts creating a liability for payment of fee for (i) first INR 20,00,00,000, and then (ii) for the amount over and above INR 20,00,00,000.
 - The limitation of INR 30 lakhs is obviously intended to be placed on the additional sum and not inclusive of the fixed fee as per the table under the Schedule IV.
 - Thereafter, the Petitioner filed a petition under section 14 of the Act before the Court. The Petitioner submitted that charging excessive fee, in violation of the fee schedule which is statutorily prescribed, is a valid ground for termination of the arbitrator’s mandate under Section 14 of the Act.

FINDINGS OF THE COURT

There is no scope of ambiguity upon a plain reading of Entry No. 6

- The Court observed that it is agreed that the arbitral tribunal was to be guided by Entry No.6 on account of the quantum of sums in dispute in arbitration (i.e. INR 102 crores approx.). The disputed phrase ‘ceiling of INR 30,00,000/-’ as per the Petitioner included the base fee of INR 19,87,500/-, whereas, as per the Tribunal, the ceiling was applicable only to the variable fee component. The Respondent’s submissions were in consonance with the findings of the Tribunal in the Order.
- Upon examining Entry No. 6 of Schedule IV, the Court observed as follows:
 - The plain text of Entry No. 6 reveals that for all arbitrations involving sums in dispute exceeding INR 20,00,00,000/-, there is a base fee prescribed of INR 19,87,500/-. However, a certain amount of fee, i.e., the variable fee component, follows the word ‘plus’ and can be further charged by the arbitrator by way of a formula provided to calculate this amount, i.e., 0.5% of the sums in dispute which is over and above INR 20,00,000/-.
 - The variable fee component, being additional in nature and calculated on a percentage basis, is dependent on the sums in dispute.
 - The base fee is a fixed fee prescribed against the lower limit of the sums in dispute, whereas the variable fee component is prescribed in relation to the upper limit of the sums in dispute. The variable fee component, being additional in nature and calculated on a percentage basis, is dependent on the sums in dispute. This is clear as percentages decrease as the sums in dispute increase from Entry nos.1 to 6.
 - The word ‘plus’ employed in the preceding rows containing Entry Nos. 1 to 5 disjoint the two components of the Model Fee, which implies that the same is true for Entry No. 6.
 - The word ‘plus’ is the disjunctive between the base fee and variable fee component, it is evident that the ceiling of INR 30,00,000/- has been imposed on the variable fee component.

- Rejecting the Petitioner’s contention that the difference between English and the Hindi translation of Entry No. 6 created ambiguity, the Court held that even the Hindi version stipulates that the ceiling limit is applicable only on the amount payable in addition to the base amount of INR 19,87,500/-.
- The Court also held that the plain text of Schedule IV set out the meaning and implication of Entry No. 6 and therefore there was no need to delve into external aids of interpretation. In any event, the Court held that Entry No. 6 is not in conflict with the recommendations of the 246th Law Commission Report and/or the DIAC Rules.

CONCLUSION AND ANALYSIS

In view of the above, the Court held that the Petition was meritless and dismissed the same. This decision is welcome inasmuch as it clarifies the computations under Schedule IV of the Act, particularly Entry No.6.

It is relevant to note that in *Singh Builders Syndicate*², the Supreme Court highlighted the burgeoning costs of ad-hoc arbitrations in India and the resulting disadvantages. Thereafter, the Arbitration and Conciliation (Amendment) Act, 2015 introduced Schedule IV that streamlined the fee structure for arbitrations in India. Periodic review of Schedule IV will aid in ensuring that the fees are updated with changing times. The judgment may even encourage more conscious claims by Claimants, given the fact that an inflated claim may invite higher costs of the arbitration as well.

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² *Union of India v. Singh Builders Syndicate*, (2009) 4 SCC 523