The Insurance (Appeal to Securities Appellate Tribunal) Amendment Rules, 2016[1]

[Last amended on 15.4.2021]

In exercise of the powers conferred by sub-section (1) and clause (lb) of sub-section of section 114, read with sub-sections (2) and (6) of section 110 of the Insurance Act, 1938 (4 of 1938), the Central Government hereby makes the following rules, namely:—

1.Short title and commencement.—(1) These rules may be called the Insurance (Appeal to Securities Appellate Tribunal) Rules, 2016.

2. Definitions.—

(1)In these rules, unless the context otherwise requires,-

(a) "Act" means the Insurance Act, 1938 (4 of 1938);

(b) "appeal" means an appeal preferred under section 110 of the Act;

(c)"Appellate Tribunal" means the Securities Appellate Tribunal, as defined in clause (16C) of section 2 of the Act, established under section 15K of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(d)"Authority" means the Insurance Regulatory and Development Authority of India as defined in clause (1A) of section 2 of the Act, established under sub-section (1) of section 3 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999);

(e)"Form" means the form appended to these rules;

(f)"Member" means a Member of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992 (15 of 1992);

(g)"party" includes both appellant and respondent in the appeal before the Appellate Tribunal;

(h)"Presiding Officer" means the Presiding Officer of the Securities Appellate Tribunal appointed under section 15L of the Securities and Exchange Board of India Act, 1992(15 of 1992);

(i)"Registrar" means the Registrar of the Appellate Tribunal;

(j)"registry" means the registry of the Appellate Tribunal;

(k)"section" means a section of the Act.

(2)Words and expressions used in these rules and not defined, but defined in the Act or in the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), shall have the meanings as assigned to them in those Acts.

3.Form and procedure of appeal.—(1) A memorandum of appeal shall be in Form 1 and may be filed in person before the registry of the Appellate Tribunal or sent by registered post addressed to the Registrar.

[1]The principal rules were published in the Gazette of India, Extraordinary, *vide* notification number G.S.R. 179(E), dated the 17th February, 2016, and subsequently amended *vide* G.S.R. 262(E), dated the 15th April, 2021.

(2)A memorandum of appeal sent by post shall be deemed to have been presented in the registry on the day it was received in the registry.

4.Appeal to be in writing.—(1) Every appeal, application, reply, representation or any document filed before the Appellate Tribunal shall be typewritten, cyclostyled or printed neatly and legibly on one side of good quality paper of foolscap size in double space and separate sheets shall be stitched together and every page shall be consecutively numbered and filed in the manner provided in sub-rule (2).

(2) The appeal under sub-rule (1) shall be presented in five sets in a paper book along with an empty file size envelope bearing full address of the respondent and in case the respondents are more than one, then sufficient number of extra paper books together with empty file size envelope bearing full addresses of each respondent shall be furnished by the appellant.

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5.Presentation and scrutiny of memorandum of appeal.—(1) The Registrar shall endorse on every appeal the date on which it is presented under rule 3 or deemed to have been presented under that rule and shall sign endorsement.

(2)If, on scrutiny, the appeal is found to be in order, it shall be duly registered and given a serial number.

2[(3) If, upon scrutiny, the Registrar finds an appeal to be defective, where—

(a) the appellant has presented such appeal in person and the defect is formal in nature, the Registrar may allow the same to be rectified in his presence by the appellant;

(b) the defect is other than referred to in clause (a), he shall give intimation to the appellant by registered post or electronic mail, to remove the defects within fifteen days from the date of such intimation given by the Registrar.]

(3)If an appeal on scrutiny is found to be defective and the defect noticed is formal in nature, the Registrar may allow the appellant to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the appellant such time to rectify the defect as he may deem fit and where such appeal has been sent by post and found to be defective, the Registrar may communicate the defects to the appellant and allow the appellant such time to rectify the defect as he may deem fit.

(4)If the appellant fails to rectify the defect within the time allowed in sub-rule (3), the Registrar may, by order, and for reasons to be recorded in writing, decline to register such memorandum of appeal and communicate the order to the appellant within seven days thereof.

(5)An appeal against the order of the Registrar under sub-rule (4) shall be made within fifteen days of receiving of such order to the Presiding Officer concerned in his chamber, whose decision thereon shall be final.

2Substituted *vide* G.S.R. 262(E), dated the 15th April, 2021, published in Gazette of India, Part II, Section 3(i), dated the 15th April, 2021.

6.Fee.—(1) Every memorandum of appeal shall be accompanied with a fee as provided in sub-rule (2) and such fee may be remitted in the form of crossed demand draft drawn on any nationalized bank in favour of "The Registrar, Securities Appellate Tribunal" payable at the station where the registry is located.

(2) The amount of fee payable shall be—

(i)in respect of appeal against an order made by the Authority by way of adjudication under the Act, as provided in the Table below, namely:—

TABLE

Sl. No. (1)	Amount of penalty imposed (2)	Amount of fees payable (3)
1.	Less than rupees one lakh	Rupees five thousand.
2.	Rupees one lakh or more but less than Rupees fifty lakh	Rupees ten thousand.
3.	Rupees fifty lakh and more	Rupees ten thousand plus Rs. 5000 for every additional one lakh of penalty or fraction thereof subject to a maximum of rupees one lakh fifty thousand;

(ii)in respect of an appeal against any other order made by the Authority under the Act, or the rules or regulations made thereunder, or under the Insurance Regulatory and Development Authority Act 1999 (41 of 1999), shall be rupees five thousand only.

7.Contents of memorandum of appeal.—(1) Every memorandum of appeal filed under rule 3 shall set forth concisely under distinct heads, the grounds of such appeal without any argument or narrative, and such ground shall be numbered consecutively and shall be in the manner provided in sub rule (1) of rule 4.

(2)It shall not be necessary to present separate memorandum of appeal to seek interim order or direction if in the memorandum of appeal, the same is prayed for.

8.Documents to accompany memorandum of appeal.—(1) Every memorandum of appeal filed in five sets shall be accompanied with copies of the order, one of which shall be certified copy, against which the appeal is filed.

(2)Where a party is represented by authorised representative, a copy of the authorisation to act as the authorised representative and the written consent thereto by such authorised representative shall be appended to the appeal.

9.Plural remedies.—A memorandum of appeal shall not seek relief or reliefs therein against more than one order unless the reliefs prayed for are consequential.

10.Notice of appeal to the respondent.—(1) A copy of the memorandum of appeal and paper book shall be served by the Registrar on the respondent as soon as they are registered in the registry, by hand delivery, or by Registered Post or Speed Post.

11.Filing of reply to the appeal and other documents by the respondent.—(1) The respondent may file five complete sets containing the reply to the appeal along with documents in a paper book form with the registry within one month of the date of service of the notice on him of the filing of the memorandum of appeal.

(2)Every reply, application or written representation filed before the Appellate Tribunal shall be verified by the party as provided in

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(3)A copy of every application, reply, document or written material filed by the respondent before the Appellate Tribunal shall be forthwith served on the appellant, by the respondent.

(4)The Appellate Tribunal may, in its discretion, on application by the respondent allow the filing of reply referred to in sub-rule (1) after the expiry of the period referred to therein.

12.Date of hearing to be notified.—The Appellate Tribunal shall notify the parties the date of hearing of the appeal in such manner as the Presiding Officer may by general or special order direct.

13.Hearing of appeal.—(1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal and the Appellate Tribunal shall, then, if necessary, hear the respondent Authority or its authorized representative against the appeal, and in such case the appellant shall be entitled to reply and during the course of the hearing of appeal, the written arguments could be supplemented by time-bound oral arguments.

(2)In case the appellant does not appear in person or through an authorized representative when the appeal is called for hearing, the Appellate Tribunal may dispose of the appeal on merits:

Provided that where an appeal has been disposed of as provided above and if the appellant appears afterwards and satisfies the Appellate Tribunal that there was sufficient cause for his non-appearance when the appeal was called for hearing, the Securities Appellate Tribunal may, by order, set aside the ex-parte order and restore the appeal.

14.Dress regulations for the representatives of the parties.—(1) Every authorized representative, other than a relative or regular employee of the party shall appear before the Appellate Tribunal in his professional dress if any, and if there is no such dress, a male, in a suit or buttoned-up coat over a pant or national dress that is a long buttoned up coat on dhoti or churidar pyjama or in any other sober dress, and a female, in a coat over white or any other sober coloured saree, or in any other sober dress.

(2) All other persons appearing before the Appellate Tribunal shall be properly dressed in sober attire.

15.Order to be signed and dated.—(1) Every order of the Appellate Tribunal shall be signed and dated by the Presiding Officer and other Members constituting the Bench.

(2)The Appellate Tribunal shall have powers to pass interim orders or injunctions, subject to reasons to be recorded in writing, which it considers necessary in the interest of justice.

(3)The order shall be pronounced in the sitting of the Appellate Tribunal by the Presiding Officer or by the Member if so authorised.

16.Publication of orders.—The orders of the Appellate Tribunal, as are deemed fit for publication in any authoritative report or the press may be released for such publication on such terms and conditions as the Presiding Officer may lay down.

17.Communication of orders.—A certified copy of every order passed by the Appellate Tribunal shall be communicated to the Authority and to the parties.

18.Orders and directions in certain cases.—The Appellate Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its orders or to prevent abuse of its process or to secure the ends of justice.

19.Fee for inspection of records and obtaining copies thereof.—(1) A fee of rupees twenty, for every hour or part thereof of inspection subject to a minimum of rupees one hundred shall be charged for inspecting the records of a pending appeal by a party thereto.

(2)A fee of rupees five for a folio or part thereof not involving typing and a fee of rupees ten for a folio or part thereof involving typing of statement and figures shall be charged for providing copies of the records of an appeal, to a party thereto.

20.Seal and emblem.—The official seal and emblem of the Appellate Tribunal shall be such as the Central Government may specify.

FORM 1

(See Rule 4)

Memorandum of appeal

For use in Appellate Tribunal's office

Date of presentation in the registry

Date of receipt by post

Registration number

Signature

Registrar

Before the Securities Appellate Tribunal

In the matter of the Insurance Act 1938 (4 of 1938)

and

In the matter of appeal against the order made on _____ by _____

In the matter of appeal against the order made on _____

by _____ … A. B. Appellant

C.D. and other – … Respondent(s)

Details of appeal:

1.**Particulars of the appellant:**

(i) Name of the appellant

(ii) Address of registered office of the appellant

(iii) Address of service of all notices

(iv) Telephone/Fax Number and e-mail address, if any

2.**Particulars of the respondent(s):**

(i) Name of the respondent(s)

(ii) Office address of the respondent(s)

(iii) Address of respondent(s) for service of all notices

(iv) Telephone/Fax Number and e-mail address, if any

3.**Jurisdiction of the Appellate Tribunal**

The appellant declares that the matter of appeal falls within the jurisdiction of the Appellate Tribunal

4.**Limitation**

The appellant further declares that the appeal is within the limitation period, as specified in the Act, from the date on which a copy of the order against which the appeal is filed, is received by the appellant.

5.**Facts of the case and the details of the order against which appeal is filed:**

The facts of the case are given below

(Give here a concise statement of facts and grounds of appeal against the specified order in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise).

6.**Relief(s) sought**

In view of the facts mentioned in paragraph 5 above, the appellant prays for the following relief(s) [Specify below the relief(s) sought, explain the grounds for relief(s) and the legal provisions, if any, relied upon].

7.**Interim order, if prayed for**

Pending final decision of the appeal, the appellant seeks issue of the following interim order: (Give here the nature of the interim order prayed for with reasons).

8.**Matter not pending with any other court etc.**

The appellant further declares that the matter regarding which this appeal has been made is not pending before any court of law or any other authority or any other Tribunal.

9.**Particulars in respect of the fee paid in terms of rule 9 of these rules—**(1)Amount of fees

(2)Name of the Bank on which Demand Draft is drawn

(3)Demand draft number

10.**Details of Index**

An index containing the details of the documents to be relied upon is enclosed.

11.**List of enclosures—**

(Signature of the appellant/Authorized Representative)

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[*See* rule 4(3) and 11(2)]

Verification

I……son/daughter/wife of Shri…..…….being the (status of party)/authorized representative of……(status of party)……..…..do hereby verify that the contents of paras 1 to 11 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Signature of the party/Authorized Representative Place:

Date:

To

The Registrar

…….

…….