

**NIRNAYA**  
**(The Scheme)**  
**(Mediation Other than Court annexed Mediation)**

The robust service platform established under KSMCC, providing the service of Court annexed mediation has been widely acclaimed and recognized by lawyers, litigants etc. The service of experienced and trained mediators would bring an end to the lengthy litigious process by saving money and time. KSMCC also felt that the formal adversarial litigation is not suitable in complex multi-parties civil litigation. Mediation would be an effective platform to resolve disputes and differences involving large number of individuals and groups who have invested money in huge infrastructure projects like construction. The mediators having the highest level of training and experience would be an impetus to sustain growth in high volume business. Nirnaya scheme is to extend mediation services to all disputes including the disputes pending before tribunal etc.. throughout the State of Kerala, but not in matters pending before courts,

**Role of KSMCC**

The PLM will be a centralised system managed by the KSMCC. The mediation Centre High Court of Kerala, 14 DMCs, 2 additional mediation centres and 59 mediation sub centres will assist KSMCC for smooth conduct of NIRNAYA.

**Procedure**

NIRNAYA is purely a private mediation process under the supervision of KSMCC. Those who are interested in availing of the services of private mediation can approach KSMCC using the prescribed form. A nominal administrative charge will be levied.

The parties can choose their mediator from the empanelled mediators and also the venue or the online platform for conducting the mediation.

On receipt of the duly completed application by KSMCC, it shall be assigned a Pre-Litigation Mediation (PLM) number and shall be entered in the register

maintained by KSMCC. The nodal officer will contact the applicant to reconfirm the request for mediation and his option of venue of PLM and the mediator. The nodal officer will then contact the opposite party to ascertain his willingness for mediation and the mediator opted for by the applicant. If the opposite party is willing for PLM and agreeable with regard to the mediator opted by the applicant, the nodal officer may proceed to fix the date for PLM after consulting with the mediator so selected and fix the venue for PLM. The reference of the PLM should be made to the mediator and the mediator shall proceed with the reference.

If the opposite party is not agreeable with regard to the mediator so selected by the applicant, or if the parties did not opt for a mediator, the nodal officer shall allocate the PLM to a mediator, at the convenience of the parties, on the basis of the venue they selected or place they belong to, from the panel of KSMCC. The reference to be made to the mediator and the mediator shall proceed with the reference.

The fee of the mediator as per schedule shall be paid to KSMCC by the parties within the time indicated by the Director of KSMCC.

The mediation shall be completed within a maximum period of 3 months from the date of remittance of the fee or within the time as agreed between the parties subject to the consent of the mediator.

In the event of settlement of disputes, the mediator shall draw up a settlement agreement containing lawful and mutually acceptable terms. If the parties require an award, enforceable as a decree to be passed, the mediator shall assist the parties to get the award passed by the Lok Adalath of the Legal Services Authority or by the mediator acting as the Conciliator with previous consent of all the parties to the settlement. On the final settlement of dispute or failure of PLM, the mediator shall submit a report on the same to KSMCC.

### **Fees**

The parties have to jointly pay the fees as per the schedule directly to KSMCC. The fee is subject to change as per the decision of the governing body and the fee with

respect to matters not covered under the schedule will be fixed on the basis of the nature of the dispute involved.

### **Schedule of fee payable to mediator**

In case of monetary claims except in disputes concerning public sector and private organisations, matters pending before Tribunals etc., and the matters of motor accident claims, the fee shall be as follows.

<u>Claim amount</u>	<u>Fee to be paid</u>
Upto 3 Lakhs	Rs.10,000/-
From Rs. 3,00,000/- upto Rs.10,00,000/-	Rs. 15,000/-
Above Rs. 10,00,000/- and upto Rs.50,00,000/-	Rs. 30,000/-
Above Rs. 50,00,000/- and upto Rs.1,00,00,000/-	Rs. 40,000/-
Above Rs.1,00,00,000/- and upto Rs.3,00,00,000/-	Rs. 50,000/-
Above Rs. 3,00,00,000/-	Rs. 75000/-

### **In matters of Public Sector and Public Organisations, matters pending before Tribunals:**

The fee with respect to disputes referred from Tribunals, disputes concerning Public Sector and Public organisations shall be as fixed by the Board of governors from time to time.

### **In motor accident claims the fee shall be as follows:**

Rs.750/- for one case and in connected cases an additional amount of Rs. 500/- will be added for each case.

### **In all other cases the fee shall be as follows;**

Rs.5000/- or as fixed by the Director based on the nature of the dispute involved.

### **Panel mediator (Institutions)**

Third Party service providers are also empanelled for conduct of mediation and as the online platforms for prelitigation online dispute resolution under NIRNAYA. The parties are at liberty to choose them also as mediators, provided the mediation, fee

structure and other consequences shall be as per the rules followed by such service providers.

**Application Form**

Name of the applicant -

Address for communication -

Mail id -

Contact Number/s -

Name of the opposite party/ties -

Address for communication -

Mail id -

Contact Number/s -

Matter for which the mediation is sought for (state in brief)-

Preference of Place at which the mediation is to be conducted-

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