

## **DISPLACED PERSONS (DEBTS ADJUSTMENT) ACT, 1951**

**70 of 1951**

**[7th November, 1951]**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title, extent and commencement
2. Definitions
3. Overriding effect of Act, rules and orders
4. Tribunals competent to exercise jurisdiction under this Act

#### **CHAPTER 2 :- DEBT ADJUSTMENT PROCEEDINGS**

5. Application by displaced debtors for adjustment of debts
6. Rejection of application in certain cases
7. Issue of notice
8. Objection by respondents
9. Proceeding after service of notice on respondents
10. Claims by creditors against displaced debtors
11. Procedure on creditors petition
12. Objection by creditor to schedule of assets
13. Claims by displaced creditors against persons who are not displaced debtors
14. Procedure on displaced creditors petition
15. Consequences of application by displaced debtor
16. Debts secured on immovable property
17. Debts secured on movable property
18. Claims against insurance companies
19. Calls on shares in companies
20. No calls to be made on displaced person or bank when company or co-operative society is in liquidation
21. Power to revise certain decree and settlement
22. Apportionment of joint debts
23. Simplified procedure in certain cases
24. Presumption respecting registered documents
25. Application of Act 5 of 1908
26. Signing and verification of applications and written statements
27. Contents of decrees
28. Execution of decrees

#### **CHAPTER 3 :- RELIEFS**

29. Cesser of accrual of interest
30. Exemption from arrest
31. Further reliefs in the matter of attachment of property
32. Scaling down of debts
33. Matters to be taken into account in directing payment by instalments
34. Variation of maintenance allowances
35. Taxation of lawyers fees
36. Extension of period of limitation
37. Curtailment of period of limitation for execution of certain decrees
38. Sale of immovable property in execution
39. Encouragement of Settlements

#### **CHAPTER 4 :- APPEALS**

40. General provisions relating to appeals
41. Restrictions on right of appeal in certain cases
42. Parties to appeals

#### **CHAPTER 5 :- MISCELLANEOUS**

43. Registration of certain societies and companies under Indian law
44. Bar of further applications in certain cases
45. Amendment of applications
46. Service of notices
47. Effect of failure on the part of displaced debtor to disclose certain matters
48. Proceedings not to abate on death of debtor
49. Past transactions not to be affected
50. Displaced debtor not to be deemed insolvent
51. Compromises or arrangements between banks and their debtors not to be reopened in certain cases
52. Communication of contents of decrees to prescribed authority
53. Application of the Limitation Act
54. Order 38 of the First Schedule to the Code of Civil Procedure not to apply
55. Protection of action taken in good faith
56. Delegation of powers
57. Power of Central Government to make rules
58. Power of State Government to make rules
- 58A. Laying of Rules
59. Repeals

### **DISPLACED PERSONS (DEBTS ADJUSTMENT) ACT, 1951**

**70 of 1951**

**[7th November, 1951]**

"The Bill is designed mainly to give relief to displaced debtors in

respect of liabilities incurred by them prior to their displacement from West Pakistan though remission of court-fee has also been allowed to displaced creditors. A certain amount of relief was afforded to them by Acts 47 of 1948 and 25 of 1949 but this was found to be inadequate. A thorough examination of the various problems involved had to be made with a view to affording displaced persons adequate and, at the same time, reasonable relief in the matter of their indebtedness, consistently with the needs of their rehabilitation. The task of such examination was entrusted to the Hon'ble Shri Bind Basni Prasad, a Judge of the Allahabad High Court, and the present Bill is the outcome of his recommendations. In brief, the object of the Bill is to relate the payment of all pre-migration pecuniary liabilities of a displaced person to - (a) his 'paying capacity' - an expression which has been defined after making liberal allowances in favour of the debtor; and (b) the compensation which might be received by him in respect of his immovable property left behind in West Pakistan. A decree under the law will thus consist of two parts, the first part being equivalent to and recoverable from the 'paying capacity' of the debtor and the second part being equivalent to the balance of the total amount decreed and recoverable from the compensation, if and when received by the debtor. The first part of the decree will, as a rule, be recoverable in instalments. In respect of the second part of the decree, it has been accepted that the amount payable should be scaled down in the proportion in which the displaced debtor is able to obtain recompense in respect of his immovable property left behind in West Pakistan. Where no recompensation is received, there will be no recovery of the second part of the decree. Displaced debtors will have the right to apply, within a period of one year from the enactment of this Bill, for the reduction of debts due to creditors, in accordance with the provisions of this Bill. All pre-migration liabilities will be consolidated for the purposes, but it has been specially provided that no stigma of insolvency will attach to any one seeking relief under this law. Certain additional reliefs, for example, remission of interest after August 15, 1947, exemption from arrest or attachment of properties, reduction of certain pre-migration liabilities like maintenance allowance, apportionment of liabilities in the case of joint debts, revision of decrees already passed with a view to bringing them into line with present legislation, etc., have also been provided and in formulating these reliefs the needs of rehabilitation and the fact that displaced persons have been unable to derive benefit from

properties left behind in West Pakistan have been given due weight. Although under the Act Civil Courts will be vested with jurisdiction, the Bill provides a simplified procedure for the determination of debts, and minimises the delay involved in a series of appeals and revisions. Debts of different categories - debts secured on immovable property, debts secured by pledge of movable property and simple debts - are dealt with differently. The respective circumstances governing such transactions have been taken into consideration, an attempt being made to temper contractual obligations with equity when both creditors and debtors have lost control over the properties offered as security. Special provisions have also been made to enable displaced persons to be absolved, for a period often years, from further liability in respect of calls on shares in companies, an opportunity being given to them to have their partly paid up shares converted into a proportionate number of fully paid up ones. Conditions of contracts with insurance companies which were more or less of a technical nature and which become incapable of fulfilment on account of circumstances beyond the control of the insured are declared to have no effect and the insured is given an opportunity of getting compensation for the losses which he has suffered. A special provision has also been made to enable displaced banks to have their existing schemes of arrangement, sanctioned by High Courts under S.153 of the Indian Companies Act, 1913 modified when. due to reliefs granted to their debtors under this Bill. they find it difficult to carry out their obligations under the schemes. Recognition of Societies and Companies registered in Pakistan has been provided for in case the majority of their members or share-holders have migrated to India."- Gaz. Ind., 1951, Pt. II. Sec. 2, p. 593.

## CHAPTER 1 PRELIMINARY

### **1. Short title, extent and commencement :-**

- (1) This Act may be called the Displaced Persons (Debts Adjustment) Act, 1951.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.

### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

- (3) "compensation" means any compensation paid, whether in cash

or in kind, in respect of any immovable property in West Pakistan belonging to a displaced person under any general scheme arrived at in this behalf between the Government of India and the Government of Pakistan or framed by the Government of India;

(8) "displaced creditor" means a displaced person to whom a debt is due from any other person, whether a displaced person or not;

(9) "displaced debtor" means a displaced person from whom a debt is due or is being claimed;

(10) "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or the fear of such disturbances in any area now forming part of West Pakistan, has, after the 1st day of March, 1947, left, or been displaced from, his place of residence in such area and who has been subsequently residing in India, and includes any person who is resident in any place now forming part of India and who for that reason is unable or has been rendered unable to manage, supervise or control any immovable property belonging to him in West Pakistan, but does not include a banking company;

(11) "prescribed" means prescribed by rules made under this Act;

(14) "West Pakistan" means the territories of Pakistan excluding the Province of East Bengal.

### **3. Overriding effect of Act, rules and orders :-**

Save as otherwise expressly provided in this Act, the provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or in any decree or order of a Court or in any contract between the parties.

### **4. Tribunals competent to exercise jurisdiction under this Act :-**

The State Government may, by notification in the Official Gazette, specify any Civil Court or class of Civil Courts as the Tribunal or Tribunals having authority to exercise jurisdiction under this Act and may define the areas in which and the extent to which such jurisdiction may be exercised.

## **CHAPTER 2**

### **DEBT ADJUSTMENT PROCEEDINGS**

### **5. Application by displaced debtors for adjustment of debts**

:-

(1) At any time within one year after the date on which this Act comes into force in any local area, a displaced debtor may make an application for the adjustment of his debts to the Tribunal within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business or personally works for gain.

(3) All persons whose names are shown in any schedule as having claims against the displaced debtor and all persons whose names are shown as joint-debtors shall be deemed to be the respondents to the application and there shall be filed along with the application or with the permission of the Tribunal at any later stage of the proceedings, as many copies of the application and as many envelopes and notices in the prescribed form duly addressed to the respondents as there are respondents.

Clauses (c) and (d).- "In our opinion the average annual income for the preceding three years would give a better indication of the position of the displaced debtor than his present average monthly income in India as suggested in the original Bill. We have made provision accordingly, and have made a small consequential change in sub-el, (d)" -S.C.R.

#### **6. Rejection of application in certain cases :-**

Where an application made under section 5 does not comply with any of the requirements of that section, the Tribunal may either reject it, or grant to the applicant such further time as it thinks fit to comply with such requirements. "We have revised this clause so as to vest a discretion in the Tribunal either to reject an application which does not comply with the requirements of the Act or to grant the applicant further time, if it thinks fit. to comply therewith."- S. C. R.

#### **7. Issue of notice :-**

If the application is not rejected under section 6 , the Tribunal shall, after causing the date for the hearing of the application to be entered in the notices referred to in section 5 , cause them to be served on the respondents.

#### **8. Objection by respondents :-**

In response to a notice under section 7 , the respondent may show cause against the application by filing a written statement containing his objections to the application: Provided that where he does not appear in person or through any authorized agent, the written statement may be sent by registered post, acknowledgment

due, to the Tribunal after having been signed in the presence of a civil judicial officer or a Magistrate or any other prescribed officer and duly attested by such officer or Magistrate. "We have made a small change in the Proviso so as to make it clear that any judicial officer exercising civil or criminal powers may attest the written statement. Power is also given to prescribe other officers for the purpose of this clause."- S.C.R.

### **9. Proceeding after service of notice on respondents :-**

(1) If there is a dispute as to whether the applicant is a displaced person or not or as to the existence of the amount of the debt due to any creditor or the assets of any displaced debtors, the Tribunal shall decide the matter after taking such evidence as may be adduced by all the parties concerned and shall pass such decree in relation thereto as it thinks fit.

(2) If there is no such dispute or if the respondents do not appear or have no objection to the application being granted, the Tribunal may, after considering the evidence placed before it, pass such decree in relation thereto as it thinks fit.

"We have made it clear that the Tribunal may also decide whether the applicant is a displaced person or not. We have also made a similar change in clause 14 (now S. 14) with respect to displaced creditors." S.C.R.

### **10. Claims by creditors against displaced debtors :-**

Any displaced person having a claim against a displaced debtor may make an application, in such form as may be prescribed, for the determination thereof to the Tribunal within the local limits of whose jurisdiction the displaced debtor actually and voluntarily resides, or carries on business, or personally works for gain, together with a statement of the debts owed to the creditor with full particulars thereof. "We have amended clause 51 (now section 51) so as to provide that compromises or arrangements entered into between displaced banks and displaced debtors should not be affected, if there is in force in respect of the displaced bank a scheme approved by the High Court. Consequently, we think clause 10( now section 10) should be confined to claims by displaced persons." S.C.R.

### **11. Procedure on creditors petition :-**

### **12. Objection by creditor to schedule of assets :-**

(2) If the Tribunal finds that the displaced debtor has wilfully and fraudulently omitted to include such assets in his application, the Tribunal may dismiss the application or refuse to allow to the displaced debtor any of the reliefs under this Act to which he would otherwise have been entitled or pass such other order in relation thereto as it thinks fit.

**13. Claims by displaced creditors against persons who are not displaced debtors :-**

At any time within one year after the date on which this Act comes into force in any local area, any displaced creditor claiming a debt from any other person who is not a displaced person may make an application, in such form as may be prescribed, to the Tribunal within the local limits of whose jurisdiction he or the respondent or, if there are more respondents than one, any of such respondents, actually and voluntarily resides, or carries on business or personally works for gain. together with a statement of the debt owing to him with full particulars thereof.

**14. Procedure on displaced creditors petition :-**

(2) If there is a dispute as to whether the applicant is a displaced creditor or not or as to the existence of the debt or as to the amount thereof, the Tribunal shall decide the matter, after taking such evidence as may be produced before it, and pass such decree in relation thereto as it thinks fit.

(3) If there is no such dispute or if the debtor does not appear or has no cause to show, the Tribunal may, after considering the evidence placed before it, pass such decree in relation thereto as it thinks fit.

**15. Consequences of application by displaced debtor :-**

Where a displaced debtor has made an application to the Tribunal under section 5 or under sub-section (2) of section 11 , the following consequences shall ensue, namely:-

(a) all proceedings pending at the date of the said application in any Civil Court in respect of any debt to which the displaced debtor is subject (except proceedings by way of appeal or review or revision against decrees or orders passed against the displaced debtor) shall be stayed, and the records of all such proceedings other than those relating to the appeals, reviews or revisions as aforesaid shall be transferred to the Tribunal and consolidated;

(b) all attachments, injunctions, orders appointing receivers or other processes issued by any such Court and in force at the date of the said application in respect of any such debt shall cease to have effect and no fresh process shall, except as hereinafter expressly provided, be issued : Provided that where an order appointing a receiver ceases to have effect under this section, the receiver shall, within fourteen days from the date on which his appointment ceases to have effect or within such further time as the Tribunal may in any case allow, submit to the Tribunal instead of to the Court which appointed him his outstanding accounts, and the Tribunal shall, in relation to such accounts, have the same powers with respect to the receiver as the Court which appointed him had or could have had;

(c), no fresh suit or other proceeding [other than any such appeal, review or revision as is referred to in clause (a)] shall be instituted against a displaced debtor in respect of any debt mentioned by him in the relevant schedule to his application;

(d) any immovable property belonging to the displaced debtor and liable to attachment shall not be transferred except under the authority of the Tribunal and on such terms as it thinks fit. until the application of the displaced debtor has been finally disposed of or any decree passed against him is satisfied in accordance with the provisions of this Act.

"We have amplified this clause so as to provide that - (a) the displaced debtor shall not transfer his immovable property without the permission of the Tribunal pending the disposal of the proceedings initiated by him or pending the satisfaction of any decree passed against him; and (b) the receiver appointed by a civil Court shall be accountable to the Tribunal where the order appointing him ceases to have "effect". - S.C.R.

#### **16. Debts secured on immovable property :-**

(1) Where a debt incurred by a displaced person is secured by a mortgage, charge or lien on the immovable property belonging to him in West Pakistan, the Tribunal may, for the purpose of any proceeding under this Act, require the creditor to elect to retain the security or to be treated as an unsecured creditor.

(4) Notwithstanding anything contained in this section, where a debt is secured by a mortgage of agricultural lands belonging to a displaced person in West Pakistan and the mortgage was with possession, the mortgagee shall, if he has been allotted lands in

India in lieu of the lands of which he was in possession in West Pakistan, be entitled to continue in possession of the lands so allotted until the debt is satisfied from the usufruct of the lands or is redeemed by the debtor: Provided that in either case the amount of the debt shall be only that amount as bears to the total debt the same proportion as the value of the lands allotted to the creditor in India bears to the value of the lands left behind by him in West Pakistan and to that extent the debts shall be deemed to have been reduced.

(5) Where a creditor elects to be treated as an unsecured creditor, in relation to the debt, the provisions of this Act shall apply accordingly.

### **17. Debts secured on movable property :-**

(2) Notwithstanding anything contained in this section, the creditor shall be entitled to receive, and to give a valid discharge in respect of, any sum due under this Act or under any other law for the time being in force from an insurance company in respect of any claim arising out of the loss or destruction of the pledged property, but the creditor shall, in any case where the sum received from the insurance company is greater than the amount of the debt due to him, pay over the surplus to the debtor.

"We have amplified this clause so as to cover all cases where pledged property had actually been placed in the possession of the creditor or where the circumstances are such that the creditor should be deemed to be in possession of the pledged property." S.C.O.

### **18. Claims against insurance companies :-**

(2) Where a loss has been incurred in respect of any property in the circumstances specified in sub-section (1), the Tribunal shall, in every proceeding where it is necessary to do so, determine respectively the amount of the loss, the amount for which the property was insured on the date of such loss, and the amount, if any paid by the insurance company, and shall make a report thereof to such board or other authority as may be prescribed, and the prescribed board or other authority shall, after taking into account such matters as may be prescribed as being relevant thereto, and subject to any rules made in this behalf, in turn propose to the Tribunal the amount for which the claim against the insurance company shall be decreed, and the Tribunal shall pass a

decree accordingly.

(3) The amount realised from the insurance company under any decree passed under sub-section (2) shall first be applied towards the satisfaction of the debt due from the displaced person and, the balance, if any, shall be refunded to the displaced person.

(4) An application under this section may be made either by a displaced person having a claim against the insurance company in the circumstances specified in sub-section (1) or by an assignee or any other person having an interest in the claim of any such displaced person, to the Tribunal within the local limits of whose jurisdiction the displaced person actually and voluntarily resides or carries on business or personally works for gain or, in the case of a displaced bank making an application under this section, within whose limits the bank carries on business, for the determination of the amount due in respect of the claim in accordance with the provisions of sub-section (2).

(5) To every proceeding under sub-section (4) the insurance company and all persons interested in the claim shall be made parties: Provided that the Tribunal may at any stage of the proceeding direct that the name of any person whose presence before the Tribunal may be necessary in order to enable the Tribunal effectually and completely to adjudicate upon and settle all the questions involved, be added to the proceeding.

(6) No application under this section shall be entertained in any case where no claim has been made to the insurance company within one year after the date of the loss.

### **19. Calls on shares in companies :-**

(1) Where a company or a co-operative society has made any call upon a displaced person or a displaced bank in respect of any moneys remaining unpaid on any share held by him or it on the 15th day of August, 1947, in the company or co-operative society, as the case may be, and there has been a failure on the part of the shareholder to pay any moneys due in respect of such call, then, notwithstanding anything to the contrary contained in the Companies Act, or in the memorandum or articles of association or the Co-operative Societies Act, no interest shall be payable in respect of any such moneys due and the company or the co-operative society, as the case may be, shall not be entitled to forfeit the share or any part thereof, and any forfeiture made

before the commencement of this Act in respect of any share in the circumstances specified in this sub-section shall be deemed to have had no effect, and no person shall be deemed to have ceased to be a member of the company or co-operative society merely by reason of such forfeiture.

(2) Notwithstanding anything contained in the Companies Act, or in the memorandum or articles of association, or the Co-operative Societies Act, it shall be lawful for a displaced person or a displaced bank to apply to the company or the co-operative society, as the case may be, for the conversion of any partly paid-up share held by him or it in the company or society into such smaller number of fully paid-up shares as the society or company may have issued and in respect of which calls have already been made.

(3) Where any share forfeited before the commencement of this Act has been disposed of by the company in accordance with its articles of association and it is not possible for the company to give to the displaced person the relief to which he is entitled under this section without increasing its capital, the capital of the company shall be deemed to have been increased to the extent to which it is necessary to provide that relief.

(4) If the company or the co-operative society refuses to comply with any such request as is contained in an application under sub-section (2), the Tribunal may, on application made to it in this behalf and if satisfied that there is no cause for such refusal, issue a direction to the company or the co-operative society accordingly, and the company or society shall be bound to comply therewith and every such direction shall take effect from the date thereof.

(5) Save as otherwise provided in this section, nothing contained herein shall affect the validity of any action taken by the company or its board of directors in pursuance of the provisions of the Companies Act or of the memorandum or articles of association relating to the company.

(6) The provisions of this section shall have effect for a period of ten years from the 15th day of August, 1947, and thereafter shall cease to have effect except as respects things done or omitted to be done.

"In our opinion, the right of third parties who have acquired any interest in shares forfeited by a company for non-payment of calls should not be disturbed, but at the same time suitable relief should

be afforded to the displaced shareholders whose shares have been forfeited. The most equitable course to follow would be to provide for an increase of capital in such cases. We have also provided that any action taken by the company after the forfeiture of shares, should not be affected merely by reason of the fact that the rights of the holders of the forfeited shares have now been restored vis-a-vis the company." S.C.R.

**20. No calls to be made on displaced person or bank when company or co-operative society is in liquidation :-**

(1) Where a company or a co-operative society is being wound up, no displaced person or displaced bank shall be called upon, notwithstanding anything to the contrary contained in the Companies Act or in the memorandum or articles of association or the Co-operative Societies Act, to make any contribution to the assets of the company or co-operative society, as the case may be, in respect of any share held by him or it in the company or society on the 15th day of August, 1947.

(2) The provisions of this section shall have effect for a period of ten years from the 15th day of August, 1947, and shall also apply in respect of any calls made and not satisfied before that date, and shall cease to have effect after the expiry of the said period except as respects things done or omitted to be done.

**21. Power to revise certain decree and settlement :-**

(1) Where, before the commencement of this Act, a decree has been passed by a Civil Court against, or a settlement has been entered into by, a displaced debtor in respect of any debt, the Tribunal shall, on application of such debtor, revise it so as to bring it into accord with the provisions of this Act.

(2) In determining the amount due under any such decree or settlement, the Tribunal shall accept as binding the findings of the Court which passed the decree or the facts contained in the settlement, as the case may be, to the extent to which the findings or the facts are not inconsistent with the provisions of this Act : Provided that the Tribunal shall not determine any claim under any such decree until any appeal or revision filed against it has been finally decided or the period allowed for any appeal therefrom has expired, and in all such cases the finding of the Tribunal shall be based on the final decree.

(3) Notwithstanding anything contained in this section, no Tribunal

shall in respect of any debt revise any settlement arrived at before the commencement of this Act between an insurance company and a displaced person or between an insurance company and a displaced bank having an interest in the claim of a displaced person against the insurance company and arriving at such settlement by virtue of that interest: Provided that payment in full has been made in pursuance of such settlement.

Sub-section (3).-"In our opinion, settlements arrived at between insurance companies and displaced persons or displaced banks in respect of any claim against the insurance company in any case where payments have been made should not be reopened; and we have provided accordingly." - S.C.R.

## **22. Apportionment of joint debts :-**

Where a debt is due from a displaced person jointly with another person, the Tribunal shall, for the purposes of this Act, apportion the liability between them according to the following rules, namely:-

(a) if the liability of each debtor is defined, then according to the defined share of each;

(b) if the debt was taken for any trade or business of the joint debtors, then according to the shares held by each of the joint debtors in the trade or business;

(c) if the debt was not taken in any defined shares or for any trade or business in which the partners have any defined share, the debt shall be apportioned into as many parts as there are joint debtors, and each joint debtor shall be liable only for the part apportioned to him;

(d) if one joint debtor is a displaced person and another is not, the sum apportioned to the non-displaced person shall not be deemed to be a debt within the meaning of this Act and the creditor may in respect of such debt seek any remedy open to him in a civil Court or otherwise;

(e) if the debt was taken by a joint Hindu family, the members of the joint Hindu family shall be deemed to be joint debtors within the meaning of this section and the debt shall be apportioned amongst the members thereof in the same proportion in which shares would be allotted to them on partition : Provided that the share of any member of such a joint family any of whose male lineal ascendants in the male line of ascent is alive and joint with such

member shall be deemed to be included in the share of his oldest surviving ascendant in the male line of ascent, and such member shall not be separately regarded as a joint debtor for the purpose of this clause;

(f) if the liability is secured by a mortgage of movable and immovable properties, the debt shall be apportioned between the two properties in the same proportion as the value of each property bears to the total value of the properties;

(g) where the relationship between the joint debtors is that of principal and surety, nothing contained in this Act shall prevent the institution of a suit for the recovery of the debt against the surety but no decree shall be passed in such suit for an amount in excess of the amount decreed or which can be decreed against the principal debtor in accordance with the provisions of this Act; Provided that the total amount which may be recovered from the principal debtor and the surety shall not exceed the amount decreed or which can be decreed by the Tribunal against the principal debtor in accordance with the provisions of this Act.

### **23. Simplified procedure in certain cases :-**

In the determination of any individual debt which does not exceed five thousand rupees,-

(a) it shall not be necessary for the Tribunal to take down the evidence of the witnesses in writing at length but the Tribunal, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes and such memorandum shall be written and signed by the Tribunal and shall form part of the record;

(b) the decision of the Tribunal need not contain more than the points for determination and the decision thereon.

### **24. Presumption respecting registered documents :-**

It shall be presumed until the contrary is proved that any document registered under Registration Act, 1908 or any certified copy thereof and produced before the Tribunal has been proved.

### **25. Application of Act 5 of 1908 :-**

Save as otherwise expressly provided in this Act or in any rules made thereunder, all proceedings under this Act shall be regulated by the provisions contained in Code of Civil Procedure, 1908 .

**26. Signing and verification of applications and written statements :-**

Every application and the schedules, if any, attached thereto and every written statement filed before the Tribunal for any relief under this Act shall be signed and verified in the manner prescribed by Displaced Persons (Claims) Act, 1950, for the signing and verification of pleadings.

**27. Contents of decrees :-**

In all cases in which the Tribunal passes a decree on the application of a displaced person, it shall prepare a complete schedule of the creditors and of the assets and liabilities of the displaced person.

**28. Execution of decrees :-**

It shall be competent for the Civil Court which has been specified as the Tribunal for the purposes of this Act to execute any decree or order passed by it as the Tribunal in the same manner as it could have done if it were a decree or order passed by it as a Civil Court.

CHAPTER 3  
RELIEFS

**29. Cesser of accrual of interest :-**

(2) Nothing in this section shall apply to the interest payable in respect of any monies advanced by a creditor, including an insurance company, on the security of a policy of life insurance of a displaced debtor in order to keep it alive.

"In our opinion it would be equitable to exclude from the operation of this section interest payable during the period from the 15th August, 1947, to the date of commencement of this Act on shares, stocks, Government or other securities pledged with a creditor. We also think that a discretion should be given to the Tribunal to award interest during this period to any creditor, if it thinks it proper to do so, but the interest should not exceed four per cent, per annum simple in any such case. A second category of cases which we have excluded from the operation of this provision relates to revival of insurance policies under automatic non-forfeiture clauses and the like." - S.C.R.

**30. Exemption from arrest :-**

No displaced person shall be liable to arrest or imprisonment in execution of any decree for the recovery of any debt whether passed before or after the commencement of this Act.

**31. Further reliefs in the matter of attachment of property :-**

Section 60 of the Code of Civil Procedure, 1908 shall, in relation to the execution of any decree for a debt against a displaced person (whether passed before or after the commencement of this Act), have effect as if-

(2) in clause (i), for the words "hundred rupees" the words "two hundred and fifty rupees" had been substituted:

"Any private asset which is severable from any asset created out of a loan advanced by Government should be capable of being proceeded against under this Act in execution of any decree or order against a displaced person, and we have added an Explanation to clause (s) accordingly." - S.C.R.

### **32. Scaling down of debts :-**

(5) A creditor shall have the right at any time at least six months before the receipt by the debtor of compensation to apply that the whole or the balance of the first part of the decree, in so far as any debt due to him is concerned, may be added to the second part of the decree, and thereupon he shall have no right to realise any money from the assets of the debtor in India.

(10) For the purposes of this Act, where the compensation is paid in cash, the amount which shall be available for purposes of satisfaction of the debts in the second part of the decree shall in no case exceed seventy-five per cent. of the amount of such compensation; and where it is by way of exchange of property, the extent of the property which shall be available for the said purposes shall in no case exceed seventy-five per cent, in value of such property.

### **33. Matters to be taken into account in directing payment by instalments :-**

(2) Where a displaced creditor is a minor, or a widow or a person who, by reason of any physical disability, is permanently disabled from earning his livelihood, the Tribunal may direct that any instalment payable to him or her shall be twenty-five per cent. higher than what would otherwise have been directed to be paid, and where it does so, it shall also direct that the instalments of other decree-holders shall be proportionately reduced.

### **34. Variation of maintenance allowances :-**

Where a displaced debtor has been ordered to pay an allowance periodically to any person for his maintenance under any decree or

order of a Court, or is liable to pay such allowance under any agreement voluntarily entered into, the rate at which such allowance is payable may be varied by the Tribunal on application made to it in this behalf, if in view of the change in the circumstances of the displaced debtor, the Tribunal thinks that such variation is necessary, and such variation shall have effect for such period as the Tribunal may direct, notwithstanding anything in any decree, order or agreement to the contrary.

**35. Taxation of lawyers fees :-**

In directing payment of costs by any person as costs in respect of fees to any legal practitioner employed in any proceeding before it, the Tribunal shall be guided by any rules for the time being in force regulating the payment of such costs in proceedings of a similar nature before the ordinary Civil Courts, and shall not award more than one-half of what in its opinion the costs before the Civil Court would have been. "We have redrafted this clause so as to require the Tribunal to be guided by similar rules regulating payment of costs to legal practitioners in ordinary civil proceedings, the intention being that the costs should not exceed half the amount normally payable." - S.C.R.

**36. Extension of period of limitation :-**

Notwithstanding anything contained in Limitation Act, 1908 or in any special or local law or in any agreement.-

(b) any suit or other legal proceeding for the enforcement of a claim against an insurance company not falling within the provisions of clause (a) in respect whereof the cause of action had arisen, whether wholly or in part, in the territories now situate in West Pakistan and the institution of the suit or other legal proceeding has become barred by reason of a condition in the contract, which, but for the condition, would have been governed by the provisions contained in clause (a), may be instituted at any time within one year from the commencement of this Act.

**37. Curtailment of period of limitation for execution of certain decrees :-**

Notwithstanding anything contained in Section 48 of the Code of Civil Procedure, 1908 , or in any other law for the time being in force, no order for the execution of a decree in respect of a debt against a displaced person shall be made upon an application presented after the expiration of-

(a) in the case of decrees passed before the commencement of this Act, six years from such commencement;

(b) in the case of decrees passed after the commencement of this Act, six years from the date of the decrees,

### **38. Sale of immovable property in execution :-**

(1) Where in the execution of any decree for the recovery of a debt against a displaced person his immovable property is sought to be sold, the Court executing the decree shall, in the first instance, determine the market value of the property and, if the value so determined is less than or equal to the amount of the decree together with the proportionate amount of any prior encumbrance, the Court shall transfer the property to the decree-holder.

(2) If the value determined under sub-section ( 1 ) is greater than the amount of the decree together with the proportionate amount of any prior encumbrance, the Court shall determine the portion of such property the value of which is equal to the amount of the decree with the proportionate amount of such prior encumbrance, and may, if it is reasonable or convenient to do so, transfer that portion to the decree-holder.

(3) Where any property is transferred under the provisions of this section to the decree- holder, the decree shall be deemed to be satisfied to the extent of the value of the property so transferred: Provided that if the decree-holder does not desire to take the property or, in the opinion of the Court, it is not reasonable or convenient to transfer the property to him, the property may be sold by public auction, but irrespective of the price fetched at the public auction the market value of the property as determined under this section (and not the amount payable to the decree-holder out of the sale proceeds of the public auction) shall be deemed to be the amount which has been paid to the decree-holder in respect of the decree, and satisfaction thereof shall be entered accordingly.

### **39. Encouragement of Settlements :-**

If the displaced debtor and the creditor or, where there are more creditors than one, such number thereof as hold more than two-thirds in value of the debts due from the displaced debtor enter into an agreement for the adjustment of the liabilities, the Tribunal shall, if an application is made to it in this behalf, after giving due notice to the other creditors affected, adjust the remaining debts

accordingly if the terms of the agreement are just and fair, and pass a decree accordingly.

CHAPTER 4  
APPEALS

**40. General provisions relating to appeals :-**

Save as otherwise provided in section 41 , an appeal shall lie from -

(a) any final decree or order of the Tribunal, or

**41. Restrictions on right of appeal in certain cases :-**

Notwithstanding anything contained in section 40 , where the subject-matter of the appeal relates to the amount of a debt and such amount on appeal is less than rupees five thousand, no appeal shall lie.

**42. Parties to appeals :-**

For the purpose of any appeal under this Act, it shall be sufficient if only such persons as, in the opinion of the appellant, are necessary parties to the appeal for the purpose of determining the real questions in controversy between them, are impleaded as respondents to the appeal: Provided that where it appears to the High Court at the hearing that any person who was a party to the proceeding before the Tribunal from whose decree the appeal is preferred but who has not been made a party to the appeal is interested in the result of the appeal, the Court may adjourn the hearing to a future date to be fixed by the Court and direct that such person be made a respondent.

CHAPTER 5  
MISCELLANEOUS

**43. Registration of certain societies and companies under Indian law :-**

(2) The Registrar, after making such inquiry into the matter as he deems fit, may either accord such recognition or refuse to do so.

(3) An appeal shall lie from the order of the Registrar under sub-sec. (2) to the State Government and on order passed by the Registrar or by the State Government on appeal shall be called in question in any Court,

(4) Where the Registrar accords recognition to a society, co-operative society or company, he shall cause necessary entries thereof to be made in his register and thereupon, notwithstanding

anything to the contrary contained in any law for the time being in force or in any instrument, the society or the company, as the case may be, shall be deemed to have been formed and registered under the -relevant law as in force in India, and every such society or company shall, among other matters, have the right to demand and receive any moneys due to it from any person residing or carrying on business in India.

"We think that in the case of a company it should be capable of recognition in India if more than 33 1 / 3 per cent. of its shares are being held by persons resident in India, and we have provided accordingly. We have also provided for an appeal from the order of a Registrar refusing to accord recognition to any company or society." - S.C.R.

**44. Bar of further applications in certain cases :-**

Subject to the other provisions contained in this Act, where an application made by a displaced debtor under section 5 or under sub-section (2) of section 11 , or by a displaced creditor under section 13 has been dismissed, no further application for the same purpose shall lie.

**45. Amendment of applications :-**

Clerical or arithmetical mistakes in any application or in any schedule annexed thereto arising from any accidental slip or omission may at any time be corrected by the Tribunal, either of its own motion or on the application of any of the parties.

**46. Service of notices :-**

Every notice issued under this Act shall be served by registered post, acknowledgment due, unless the Tribunal for reasons to be recorded, directs service in any of the other modes specified in Order 5 of the First Schedule to the Code of Civil Procedure, 1908.

**47. Effect of failure on the part of displaced debtor to disclose certain matters :-**

Where a displaced debtor has not mentioned in the relevant schedule to his application any debt owing by him or any property, movable or immovable, belonging to him, whether such property is liable to attachment or not liable to attachment at all, nothing contained in this Act shall prevent -

(a) in the case of the debt, the creditor from instituting any proceeding for the recovery thereof under any law for the time being in force other than this Act; and

(b) in the case of the property, from being attached or otherwise dealt with under any such law.

**48. Proceedings not to abate on death of debtor :-**

Notwithstanding anything contained in this Act, no proceeding before a Tribunal shall be deemed to abate by reason merely of the death of the debtor who is a party to the proceeding, and a decree may be passed notwithstanding the death and such decree shall have the same force and effect as if it had been passed before the death took place : Provided that the Tribunal on an application made in that behalf, shall cause the legal representative of the deceased debtor to be made a party to the proceeding, and any person so made a party may make any defence appropriate to his character as legal representative of the deceased debtor: Provided further that nothing contained herein shall be deemed to render the legal representative of the deceased debtor liable to satisfy the decree except to the extent to which any of assets of the deceased debtor have devolved on him.

**49. Past transactions not to be affected :-**

(1) If before the commencement of this Act a displaced debtor has satisfied or discharged any of his liabilities in any manner whatsoever, such transactions shall not be affected by anything contained in this Act.

(2) Where the Tribunal has determined the amount -due in respect of any debt in accordance with the provisions of this Act, any payments (including payments by way of interest) made by the displaced debtor towards the debt prior to such determination shall be adjusted towards the amount so determined : Provided that no creditor shall be called upon to refund any amount paid to him if it is found that it is in excess of the amount determined as being due to him under this Act.

We have amplified this clause to make it clear that no debtor shall be entitled to any refund or any relief available to him under this Act where he has already discharged any of his debts." - S.C.R.

**50. Displaced debtor not to be deemed insolvent :-**

Notwithstanding anything contained in any law for the time being in force relating to insolvency, no displaced debtor shall be deemed to be insolvent or to have been adjudicated as such within the meaning of any law for the time being in force relating to insolvency by reason only of his applying to get his debts adjusted

under this Act, and no petition in insolvency shall lie against a displaced debtor in respect of any debt incurred by him before the 15th day of August, 1947.

**51. Compromises or arrangements between banks and their debtors not to be reopened in certain cases :-**

Notwithstanding anything contained in this Act, no compromise or arrangement arrived at, whether before or after the commencement of this Act, between a displaced debtor and a bank relating to the repayment, discharge or satisfaction of any debt owing by the displaced debtor to the bank shall be reopened by the Tribunal, and nothing contained in this Act shall affect any such compromise or arrangement : Provided that there is in force in respect of the bank a compromise or arrangement between it and its own creditors or any class of such creditors which has been duly sanctioned by the Court under S. 153 of the Indian Companies Act, 1913, and Provided further that the particulars specified in clauses (c), (cc), (ccc), (i), (q), (r) and (s) of the proviso to sub-section (1) of Section 60 of the Code of Civil Procedure, 1908 , as amended by section 31 of this Act, shall not be liable to attachment or sale in any proceeding against the displaced debtor. "We have redrafted this clause so as to leave unaffected compromises or arrangements arrived at between a displaced debtor and any bank relating to the repayment of any debt owing by the displaced debtor. It has been represented to us that to do otherwise might affect adversely certain banks in their relation with their own creditors with respect to whom they have arrived at an arrangement with the sanction of the High Court. We have, however, provided as a matter of equity that the debtor of the bank should in all cases have the benefits conferred by clause 31 of this Bill (now S. 31) on displaced debtors generally." -- S.C.R.

**52. Communication of contents of decrees to prescribed authority :-**

(3) The balance from the amount of the compensation payable shall be refunded to the displaced debtor.

(4) Any amount paid by the prescribed authority to any decree-holder under the provisions of this section shall, to that extent, be a valid discharge of the debt due by the displaced debtor,

**53. Application of the Limitation Act :-**

Subject to the other provisions contained in this Act, Limitation Act,

1908 shall apply to the institution of any proceeding under this Act, and, for the purpose of determining and computing the period of limitation prescribed by that Act in relation thereto, every application made under this Act shall be deemed to be a suit for the purpose of that Act.

**54. Order 38 of the First Schedule to the Code of Civil Procedure not to apply :-**

Nothing contained in Or.38 of the Code of Civil Procedure, 1908, relating to arrest and attachment before judgment, shall apply to any proceeding under this Act.

**55. Protection of action taken in good faith :-**

No suit, prosecution or other legal proceeding shall lie against the Government or any person, in respect of anything done or intended to be done by it or him in good faith in pursuance of this Act or of any rule or order made thereunder.

**56. Delegation of powers :-**

The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act may also be exercised by such officer or authority subordinate to the Central Government or by the State Government or by any officer or authority subordinate to the State Government as may be specified in the direction.

**57. Power of Central Government to make rules :-**

**58. Power of State Government to make rules :-**

The State Government may, by notification in the Official Gazette, make rules providing for -

(b) the manner in which copies of documents produced before the Tribunals should be certified;

(c) the returns to be made by the Tribunals and the authorities to which they may be so made.

**58A. Laying of Rules :-**

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions

aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made. the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

**59. Repeals :-**

Save as otherwise provided in S.36 of the Displaced Persons (Institution of Suits) Act, 1948" and Displaced Persons (Legal Proceedings) Act, 1949 shall cease to apply to displaced persons as defined in this Act.