Chapter one to six have fully discussed the Economics of the Private Immovable Property Litigations in Kerala. For making a resume of the study the major themes of the problem can be summarised as follows.

The first chapter gives an introduction to the subject of study. It defines the problem, objectives and methodology. The basic research issues of the study are based on the structural premises of chapter one.

Chapter two makes a brief review of the literature in Legal-Economics in which the problem under investigation is involved. The application of economic approach to legal issues is based on the analysis made by a group of economists, already referred to, is based on the theory of choice. The basic ideas in this approach are maximising behaviour, stable preferences and opportunity cost. The literature survey made in chapter two reveals that economic analysis can be used to
explain the functioning of any legal system. The major principles in the economic analysis of law and its empirical relevance are analysed in this chapter.

Chapter three presents the theoretical issues in justice and discusses the history as well as the nature of civil justice administration in India. The doctrinal legal-economic issues embodied in the concept of property are discussed here. The historical enquiry regarding the administration of the civil justice system in India reveals that India's present system of civil justice administration has no link with the Hindu and Muslim periods in Indian history. The collapse of the Mughal Empire facilitated the English Traders to establish their own legal machinery in India. The civil justice administration existing at present in India is based on the English legal system established by the British rule, instead of the Indian legal system already existed in our country.

Chapter four deals with the theoretical framework for analysing the micro economics of litigations. It discusses certain most-widely used methods for calculating
aggregate gains and losses in legal-economic issues and presents the Model developed for the study. Since the traditional tools of economic theory are not effective in analysing the litigant's behaviour under uncertainty, the Theory of Game is used as an analytical apparatus to examine and analyse the decision-making behaviour of litigants under conditions of uncertainty. This naturally leads to the formulation of the Model to investigate the various aspects of the increasing trend in litigation cost and to study the decision-making behaviour of litigants. With the help of the Model the different aspects of the problem have been identified and suggestions and recommendations are made for improving the present system of civil justice administration.

Chapter five lays out the conceptual and computational aspects of the cost-benefit structure of litigations with special emphasis on opportunity cost. This chapter discusses the normative aspects of decision-making behaviour of litigants. For evaluating the net benefit in litigation, cost should be reckoned in real terms rather than in money terms. In order to estimate the real cost of litigation one should include the direct, indirect, hidden,
and opportunity cost of litigation. Resources of a litigant are being used most efficiently when the benefits over costs is at a maximum. To make a rational choice, the litigant should evaluate each alternative actions and determine what it will contribute towards the attainment of the objective of maximisation of benefit. The cost of a litigation will be the loss of money, time and energy that the litigant could otherwise have used in some other productive pursuits or in other investments open to him. The concept of opportunity cost helps a litigant mainly in two ways. First, it helps to identify cost-creating actions and decisions that might otherwise be ignored. Second, it helps a litigant in the proper measurement of the cost that is not accurately reported in the regular accounting records.

Chapter six focuses on a cost-benefit analysis of litigations. The economic evaluation of litigation is done empirically at two levels. First, an evaluation of civil justice administration is made where the cost-raising factors in litigation are highlighted. Secondly, both costs and benefits are brought together for determining the net benefit from litigations. While assessing the cost-benefit structure
in litigations, the process of determining the net benefit from litigation is brought to light.

In the perceptive of an academic lawyer, going for a litigation may be beneficial. A litigant may also think in that line because both are guided by plain common sense regarding cost and benefit in litigation. But an economist based on economic evaluation of the cost benefit ration will advise for an out of court settlement for getting an economic benefit from a dispute. Economic reasoning helps why and when a decision regarding a litigation is worthwhile. Economic evaluation tells us that nothing is free from society's point of view. The decision to litigate for example, consumes economic resources that will then be unavailable for other uses and the economic approach can assist in determining the real value of money. The money and time which a litigant spends on court-related activities could be used in various productive ways. The use of economic resources in suits are desirable only when the benefit from the litigation exceeds the cost. If cost exceeds benefit it is unwise on the part of the litigant to use economic resources in the course of legal proceedings. But litigants at present have only a legal
approach to civil justice. A consumer of legal services should seek to maximise his economic benefit and have an economic approach to civil justice.

To give a proper basis and orientation to the evaluation of the cost-benefit ratio in litigations, the decision-making behaviour of the three groups of litigants, viz. Risk Averters, Risk Neutrals and Risk Takers, have been empirically verified. According to the empirical enquiry 8 per cent of litigants belongs to Risk Averters and 36 per cent to Risk Neutrals and 56 per cent to Risk Takers. Risk Averters believe that if they enter into litigation their position would be \( tb > tc \). Since they averted the need for litigation they could attain \( tc > tc \) status. It is interesting to note that after attaining proper cost-consciousness the percentage of Risk Averters has increased from 8 per cent to 53 per cent. Risk Neutrals before entering into litigation expect \( tb > tc \) position. But the result of the empirical study shows that their expectations are not absolutely true. After realising real cost-position, the percentage of Risk Neutrals were reduced from 36 per cent to 27 per cent. Risk Takers before entering
into suits have a $tb > tc$ expectation. But the results of the empirical study reveal that the majority of the Risk Takers ended up with the $tb < tc$ position. Thus Risk Takers have been reduced from 56 per cent to 20 per cent.

**Major findings of the Study**

The major findings emerged from the study may be presented as given below.

The historical investigation made in chapter three regarding the nature of civil justice administration in India, reveals that the civil justice system in India is basically modelled on the English legal system introduced by the British in place of the legal system that was in vogue in India. The system at present is not in a position to furnish justice at the minimum cost.

Article 39-A as per the Amendment of 1976 to the constitution of India seeks to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. But the empirical enquiry
shows that this principle enshrined in the Constitution has not been realised in private immovable property litigations.

Based on the secondary information which is discussed in chapter three, it can be presumed that inordinate delay in the disposal of suits is the major reason for the accelerating trend in litigation costs. It also shows that the existing alternative provisions for the fair administration of civil justice viz. Neethimela, Schemes for Legal Aid the Poor etc. have not fully succeeded in reducing the cost of legal services.

The analysis of primary data, made on the basis of the anatomy of litigation costs and benefits explained in chapter five reveals that those litigants who succeeded in their suits get very little economic benefits and sometimes no economic benefits at all when opportunity costs involved in the conduct of the suits are taken into consideration. It further shows that to a great extent, out of court settlements are more economically beneficial than going for litigation.
The cost-benefit analysis of litigations made in chapter six, based on the primary data, leads to the following findings.

1. As far as an average litigant in Kerala is concerned, the existing system of court fee is not affordable.

2. The actual advocate's fee is higher than the prescribed fee.

3. Economic benefit in litigation is to a considerable extent dependent upon the economic position of the litigant.

4. The cost of the private immovable property litigations in Kerala is high compared with the expected and realised-economic benefit.

5. In litigations involving more than Rupees five lakhs irrespective of the incurrence of heavy cost, decree holders are in a position to attain economic benefit from them.
6. A litigant has to incur a heavy cost for the execution of the decree.

7. Proper cost-consciousness has a significant impact on the decision-making behaviour of litigants.

As per the empirical verification of the Model presented in chapter four the following findings have emerged.

1. Though a consumer of legal services is rational, he finds it difficult to maximise the economic benefit from his litigation.

2. Litigants generally fail to comprehend the real cost of litigation before entering into their suits.

RECOMMENDATIONS

On the basis of the study, the following recommendations are made for improving the present system of civil justice administration with special focus on reducing the litigation cost in Kerala.
1. The disposal of private immovable property litigations should be made time bound.

2. Permanent administrative machinery for out of court settlements, consisting of lawyers and prominent public men, is to be established from the grass root level. The disputes relating to private property should be referred to from the very beginning to this machinery.

3. The existing system of Court Fee should be restructured.

4. The State should take appropriate steps for inculcating legal literacy among citizens and simplifying the Civil Procedure Code.

5. Most Modern management techniques are to be employed in the administration of civil justice. Example, installation of computers etc.

6. There should be appropriate judicial provision and procedural formalities for minimising the cost and time involved in the execution of the decree.
7. Provision of Insurance is to be provided for litigations. Just like the functioning of any other insurance scheme, citizens should be provided with the facility for insuring their prospective litigations.

8. It is desirable to constitute a high level judicial committee, consisting of legal economists, for studying the increasing trend in the cost of legal services in Kerala and to evaluate the functioning of the existing provisions for ensuring legal aid to the poor. (The committee should also propose recommendations to minimise cost of litigations.)

9. In order to avoid prospective litigations, every economic transaction should be free from future prospects of litigations. Documentation should be made by qualified legal professionals and legislation should be initiated for professional accountability.

It may be possible to develop macro-dynamic operational model for analysing the macro legal-economic scenario of our society.
The present study makes a close look at the economic rationale of private immovable property litigations in Kerala. The analysis of civil justice in India and evaluation of micro costs and benefits of litigations, based on the Model, reveals the significance of an Economist's Approach to legal services. The existing cost-structure and the conventional decision-making behaviour of litigants account for the accelerating trend in litigation costs. This suggests the need for rational decision-making behaviour of litigants. The empirical study done, by considering the opportunity cost of litigation and the major issues emerging from the economic evaluation of net benefits in litigations, highlights the fact that the existing Civil Procedural Approach to litigation does not exactly determine the economic cost of litigation; only an Economist's Approach to litigation could determine the 'Economics of Justice in Kerala'.