

VICTIM COMPENSATION & REHABILITATION

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Defining Victim

INDIA	S.2 (wa) Cr.P.C- “victim” means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression “victim” includes his or her guardian or legal heir;
United Nations	“Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power”

Data of Victimization in India

- ❖ 10,40,046 cases of offences affecting the human body were registered which accounted for 33.2% of total IPC crimes during 2018
- ❖ Majority of cases under crimes against women were registered under 'Cruelty by Husband or his Relatives' (27.9%) followed by 'Assault on Women with Intent to Outrage her Modesty' (21.4%), 'Kidnaping & Abduction of Women' (21.3%) and 'Rape' (6.6%)
- ❖ In percentage terms, major crime heads under 'Crime Against Children' during 2018 were kidnapping & abduction (55.9%) followed by cases under the Protection of Children from Sexual Offences Act, 2012 (27.3%).

Provisions of Compensation In CrP.C

Sections	
357 (1)	Court can impose fine on accused, which can be used to pay compensation
357(3)	Court can order the accused to pay compensation to Victim of Crime
357A	Mandates creation of Victim Compensation Fund State pays the Compensation to Victim of Crime. Legal Services Authorities determines the compensation payable to Victims
358	Compensation to persons groundlessly arrested.

Section 357 A : A Paradigm Shift

- ❖ Concept of State paid Compensation emerged
- ❖ States mandated by Section 357A to frame Victim Compensation Schemes, and accordingly have done so
- ❖ Compensation can be paid in case of conviction, acquittal, discharge and even if offender is not traced out
- ❖ In case of conviction, acquittal and discharge, reference to come from Courts
- ❖ Application by Victim can be filed directly before Legal Services Authority if accused is not identified or is untraceable

Implementation: Success & Gaps

- ❖ In **2018**, an amount of **Rs 131.62 Crore** was paid as compensation under Victim Compensation Schemes
- ❖ During the year **2019 – 20** (till November, 2019), an amount of **Rs. 181.98 crores** awarded as compensation
- ❖ Often there is gap between compensation awarded and compensation disbursed
- ❖ Adequate amount not received from State Governments at beginning of financial year
- ❖ Sufficient amount from Nirbhya Fund not transferred to Victim Compensation Funds
- ❖ Less references from Courts even in cases of victims of sexual offences

COMPENSATION PAID TO ACID ATTACK VICTIMS DURING THE YEARS 2016-17, 2017-18, 2018-19

No. of Acid Attack victims who got compensation under the Scheme			Amount released to Acid Attack Victims (in Rs)		
2016 - 2017	2017 - 2018	2018 - 2019	2016 - 2017	2017 - 2018	2018 - 2019
200	244	228	3,00,28,283	4,91,76,487	5,91,33,990

NALSA MODEL SCHEME

- ❖ NALSA formulated a Model Victim Compensation Scheme for Women Victims/ Survivors of Sexual Assault / other crimes in the year 2018.
- ❖ Model Schemes suggests compensation slabs for victims of sexual assault & acid attacks
- ❖ It earmarks a minimum Rs 3 lakh and Rs 7 lakh respectively for women who go through a crisis after sexual or acid attacks
- ❖ In case of victims of burning and acid attacks, the minimum compensation prescribed is Rs 7 lakh for total disfigurement, with a maximum of Rs 8 lakh. Rs 5 lakh minimum is prescribed in case of 50 per cent burns, while the upper limit is Rs 8 lakh
- ❖ For loss of limb/body part resulting in 80% permanent disability, Rs 2 lakh is prescribed
- ❖ It prescribed immediate, interim and final Compensation

NALSA MODEL SCHEME (Cont.)

- ❖ Supreme Court of India approved NALSA Model Victim Compensation Scheme in W.P. (C) No. 565/2012 titled Nipun Saxena Vs. Union of India
- ❖ Vide Order dated 5/9/2018, Supreme Court held that NALSA Scheme shall also work as guideline for Special Courts under POCSO Courts for determination of compensation under Rule 7 of POCSO Rules
- ❖ State Governments to restructure their schemes keeping in view the Victim Compensation Scheme prepared by NALSA
- ❖ 19 States have incorporated it, and 9 are in the process of incorporating it
- ❖ Will bring uniformity in payment of compensation to women who are victims of sexual offences and acid attacks

Beyond Compensation

- ❖ Need to understand and eliminate Secondary Victimization
- ❖ Discourse on victimization must take into consideration the secondary victimization that follows the offence
- ❖ Secondary Victimization happens due to the medical processes, police processes during investigation and criminal proceedings
- ❖ Cases of Secondary Victimization are generally seen among victims of sexual assault.
- ❖ Criminal Proceedings meant for granting justice to a victim are often the source of secondary victimization
- ❖ It also happens due to society at large. Attitude of society has a major impact on victims

Witness Protection Scheme: A positive step

- ❖ Will provide confidence to the witnesses to come forward to assist law enforcement and Judicial Authorities with full assurance of safety.
- ❖ Will safeguard witnesses and their family members from intimidation and threats against their lives, reputation and property.
- ❖ Supreme Court of India in its Judgment dated 05.12.2018 in Writ Petition (Criminal) No. 156 of 2016 titled Mahendra Chawla v. Union of India, has approved the Scheme, and directed the States to implement it.

Witness Protection (General Protection measures)

- ❖ Witness & accused do not come face to face
- ❖ Monitoring of mails and calls
- ❖ Changing phone number of witness
- ❖ Security devices in the witness's home
- ❖ Concealment of witness identity
- ❖ Close protection & patrolling
- ❖ Emergency contact persons
- ❖ Temporary change of address
- ❖ Escort to and from the court
- ❖ Specially designed Vulnerable Court Rooms

Witness Protection (Special Protection Measures)

- ❖ Protection of Identity
- ❖ Change of Identity
- ❖ Relocation of Witness

Awareness and Assistance

- ❖ Legal Services Authorities through its colossal network are spreading awareness about Laws, Schemes and Welfare Schemes amongst masses
- ❖ Providing legal assistance to Victims of Crime in Police Stations for registration of Cases
- ❖ Providing assistance to victims in courts during criminal trials
- ❖ Assisting them in filing applications/petitions for availing compensation under Victim Compensation Schemes
- ❖ Through its Legal Services Clinics, Panel Lawyers and Para Legal Volunteers reaching out to victims even in remote and far-flung areas
- ❖ Connecting Victims of Crime to Welfare Schemes facilitating rehabilitation

The Way Forward

- ❖ Need to spread awareness about Victim Compensation Schemes and other welfare schemes amongst masses
- ❖ Capacities of duty holders be enhanced by regular training programmes
- ❖ Coordination between Duty holders must for maximising reach and implementation
- ❖ Customisation of Court infrastructure to avoid secondary victimization
- ❖ Procedures in Criminal Trial be made victim friendly
- ❖ Need to connect Victims with available welfare Schemes
- ❖ Creating eco-system for providing timely psychological counselling and rehabilitation

THANK YOU