
A STUDY ON THE VICTIM COMPENSATION SYSTEM: THE NEED FOR AN OVERHAUL TO ACHIEVE AFFIRMATIVE JUSTICE

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ABSTRACT

Despite developments, several challenges continue to affect the effectiveness of the victim compensation system. Lack of awareness, procedural delays, inadequate compensation amounts, and inconsistencies in implementation often prevent victims from receiving meaningful relief. Moreover, compensation alone cannot fully address the diverse needs of victims, who may require long-term medical care, psychological counselling, social support, and economic rehabilitation. The study highlights the need for a comprehensive overhaul of the victim compensation system to achieve the objectives of affirmative justice. Such an approach requires viewing victims not merely as participants in criminal proceedings but as individuals entitled to protection, recognition, and restoration. A more effective compensation framework should ensure timely assistance, uniform standards, simplified procedures, and integrated rehabilitation services. In conclusion, affirmative justice demands a balanced criminal justice system that addresses both the accountability of offenders and the welfare of victims. Strengthening the victim compensation mechanism will contribute to restoring the dignity of victims, enhancing public confidence in the justice system, and promoting a more humane and inclusive approach to justice. The true measure of a just society lies not only in how it punishes offenders but also in how it supports and empowers those who have suffered harm. This article pointed out the overlook on victim compensation system for affirmative justice

Keywords: Victim, Affirmative Justice, Victim compensation and Victim and Accused Centric.

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INTRODUCTION

The criminal justice system has traditionally focused on the investigation of offences, prosecution of offenders, and imposition of punishment. However, in recent years, increasing attention has been given to the rights and welfare of victims of crime. Victims often suffer physical injuries, emotional trauma, financial loss, and social stigma as a result of criminal acts. While the punishment of offenders serves the objective of deterrence and retribution, it does not always address the harm suffered by victims. Consequently, the concept of victim compensation has emerged as an important component of modern criminal justice systems. Victim compensation refers to the financial assistance provided to victims or their dependents to alleviate the hardships caused by criminal acts. It is based on the principle that victims should receive support and rehabilitation, particularly in cases where the offender is unable to compensate for the loss or where compensation awarded by the court is inadequate. In India, the recognition of victims' rights has evolved significantly through legislative measures and judicial pronouncements.

The introduction of Section 357A of the Code of Criminal Procedure, 1973 marked a major step towards institutionalize victim compensation by requiring States to establish victim compensation schemes. The idea of affirmative justice extends beyond the traditional objective of punishing offenders. It seeks to ensure that victims receive adequate recognition, support, and rehabilitation as part of the justice delivery process. Victim compensation plays a crucial role in achieving this objective by providing financial relief and facilitating the restoration of victims' dignity and well-being. However, despite the existence of statutory provisions and compensation schemes, several challenges continue to hinder their effective implementation, including delays, lack of awareness, inadequate compensation amounts, and procedural complexities. Against this background, the present study examines the victim compensation system in India and evaluates its effectiveness in promoting affirmative justice. It further analyses the existing legal framework, identifies the challenges faced by victims in accessing compensation, and suggests measures for strengthening the compensation mechanism to ensure a more Victim-Centric criminal justice system.

Concept and Meaning of Victim Compensation

Victim compensation is a mechanism through which financial assistance is provided to victims of crime or their dependents to mitigate the harm suffered as a result of criminal acts. The

concept is founded on the principle that victims are entitled to support and rehabilitation in addition to the punishment imposed on offenders. Compensation serves as a means of recognising the losses suffered by victims and assisting them in rebuilding their lives. Traditionally, criminal justice systems focused primarily on the offender and the prosecution of crimes, often neglecting the needs and interests of victims. Over time, however, there has been a growing recognition that victims occupy a central position in the administration of justice. As a result, several legal systems have adopted measures aimed at protecting victims' rights and ensuring access to compensation. Victim compensation may be awarded directly by courts as part of criminal proceedings or provided through State-sponsored compensation schemes. Such compensation may cover medical expenses, rehabilitation costs, loss of income, psychological trauma, and other damages resulting from criminal conduct. In cases involving serious offences such as sexual assault, human trafficking, acid attacks, and homicide, compensation assumes particular importance as victims frequently require long-term support and rehabilitation. In India, the concept of victim compensation has evolved through legislative reforms and judicial interpretation. The insertion of Section 357A into the Code of Criminal Procedure, 1973 represented a significant development by mandating the establishment of Victim Compensation Schemes by State Governments. These schemes seek to provide financial assistance even in situations where offenders are not identified, apprehended, or capable of paying compensation. Victim compensation is therefore not merely a monetary remedy but an important instrument of restorative and affirmative justice. By acknowledging the suffering of victims and providing financial support, compensation contributes to their rehabilitation and promotes a more humane and victim-oriented criminal justice system.

Evolution of Victims' Rights and Victim Compensation in India

The position of victims within the criminal justice system has undergone significant transformation over the years. Traditionally, criminal law was primarily concerned with the prosecution and punishment of offenders, while the interests of victims received limited attention. Victims were often treated merely as witnesses in criminal proceedings, with little focus on their rehabilitation or compensation. The gradual shift towards a victim-oriented approach was influenced by international developments and growing recognition of victims' rights. The adoption of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 emphasised the need to provide victims with access to justice, restitution, compensation, and assistance.¹ This development encouraged

several countries, including India, to strengthen legal mechanisms for victim protection and compensation. In India, the first significant statutory provision relating to victim compensation was Section 357 of the Code of Criminal Procedure, 1973, which empowered courts to direct compensation to victims from fines imposed upon offenders.² However, this provision was often applied inconsistently and depended largely upon the conviction of the offender and the availability of fines. Recognising these limitations, the Law Commission of India recommended the establishment of a comprehensive victim compensation scheme. Consequently, the Code of Criminal Procedure (Amendment) Act, 2008 introduced Section 357A, requiring every State Government to formulate a Victim Compensation Scheme for providing financial assistance to victims and their dependents.³ This marked a significant shift from an offender-centric approach to a victim-centric model of justice. The judiciary has also played an important role in strengthening victims' rights. The Supreme Court has repeatedly emphasised that victim compensation is an integral component of justice and that courts should actively consider compensation in appropriate cases. Judicial decisions have highlighted the responsibility of the State to ensure that victims receive adequate support and rehabilitation. The evolution of victim compensation in India demonstrates a growing commitment towards recognising the rights and dignity of victims. Nevertheless, challenges relating to implementation, awareness, and adequacy of compensation continue to affect the effectiveness of the system.

Legal Framework Governing Victim Compensation in India

The legal framework relating to victim compensation in India has evolved with the objective of ensuring that victims of crime receive adequate financial assistance and rehabilitation. The law recognises that victims often suffer physical, emotional, and economic hardships that cannot be addressed solely through the punishment of offenders. Consequently, various statutory provisions have been introduced to strengthen the rights of victims and facilitate access to compensation. One of the earliest provisions relating to victim compensation is Section 357 of the Code of Criminal Procedure, 1973, which empowers criminal courts to award compensation to victims from fines imposed upon convicted offenders.¹ This provision enables courts to provide monetary relief to victims who have suffered loss or injury as a result of criminal conduct. However, the effectiveness of Section 357 was limited because compensation depended upon the conviction of the offender and the availability of fines. To address these shortcomings, Section 357A was inserted into the Code of Criminal Procedure,

1973 through the Criminal Procedure (Amendment) Act, 2008.² This provision requires every State Government, in coordination with the Central Government, to establish a Victim Compensation Scheme. The scheme provides financial assistance to victims and their dependents, including cases where the offender is not identified, traced, or capable of paying compensation. District Legal Services Authorities (DLSAs) and State Legal Services Authorities (SLSAs) play a crucial role in implementing victim compensation schemes. They are responsible for assessing compensation claims, determining eligibility, and recommending appropriate compensation amounts based on the nature of the injury and the circumstances of each case.³ The enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 has continued the commitment towards victim compensation and victim-centric justice. The new framework seeks to strengthen procedural safeguards and ensure that victims receive timely assistance and support. Judicial decisions have further expanded the scope of victim compensation by emphasising that compensation should be treated as an essential component of justice. Courts have repeatedly observed that victim rehabilitation is an integral aspect of the criminal justice system and that compensation should not be viewed merely as a discretionary remedy. Despite the existence of these legal provisions, practical challenges such as delays in processing claims, lack of awareness, and inconsistencies in compensation amounts continue to affect the effectiveness of the victim compensation system in India.

Challenges in the Implementation of the Victim Compensation System

Despite the existence of statutory provisions and victim compensation schemes, the effective implementation of the victim compensation system in India continues to face several challenges. These obstacles often prevent victims from receiving timely and adequate relief, thereby undermining the objective of victim-centric justice. One of the major challenges is the lack of awareness among victims regarding their right to compensation. Many victims, particularly those from economically weaker and rural backgrounds, are unaware of the existence of compensation schemes and the procedures for claiming compensation. As a result, a large number of eligible victims fail to seek the benefits available to them.¹ Another significant issue is the delay in processing and disbursing compensation. Victims are often required to complete lengthy procedural formalities and submit multiple documents before compensation is sanctioned. Such delays can cause additional hardship, especially in cases involving serious injuries, sexual offences, or the death of a family member where immediate financial assistance is essential.

The adequacy of compensation also remains a matter of concern. Compensation amounts vary across different States and may not always correspond to the actual losses suffered by victims. In many cases, the amount awarded is insufficient to cover medical expenses, rehabilitation costs, loss of livelihood, and psychological trauma resulting from the offence. Procedural complexities further hinder access to compensation. Victims may encounter difficulties in navigating administrative requirements, obtaining necessary documentation, and understanding legal procedures. The absence of a uniform and simplified process often discourages victims from pursuing compensation claims. In addition, the victim compensation system places greater emphasis on monetary relief than on comprehensive rehabilitation. Victims frequently require psychological counselling, medical support, educational assistance, and social reintegration measures, which may not be adequately addressed through compensation alone. These challenges highlight the gap between the legal recognition of victims' rights and the practical realisation of those rights. Addressing these shortcomings is essential for ensuring that victim compensation serves its intended purpose of providing meaningful relief and promoting access to justice.

The Ujjawala Scheme is for prevention of trafficking, rescue, rehabilitation, re-integration and repatriation of victims of trafficking for commercial sexual exploitation. There are 254 projects including 134 Protective and Rehabilitative Homes in the country. The number of beneficiaries are 5,291. Separate data in respect of the number of cases registered, agencies registered and the number of women rehabilitated under the prevention, rescue, rehabilitation, re-integration, repatriation components of the scheme are not maintained. This scheme is helping the beneficiaries by making a change in their life.²

The Ujjawala scheme was launched in 2007 to put an end to the trafficking of children and women. The objective of the scheme is to prevent, rescue, rehabilitate, reintegrate, and repatriate victims trafficked for commercial sexual exploitation. Prevention of trafficking of children and women for commercial sexual exploitation by means of social mobilization and awareness generation programmes, the participation of local communities, generation of public debates, and opinions through seminars/workshops and other innovative activities.

- Facilitating the rescue of victims and placing them in safe custody.

² <https://www.pib.gov.in/Pressreleaseshare.aspx?PRID=1579343®=48&lang=2>

- Provision of rehabilitation services to the victims through the provision of basic amenities and needs like food, clothing, shelter, medical help, legal aid, guidance, counseling as well as vocational training.
- For working towards reintegrating the victims into their family and the society at large.
- Facilitating cross-border victims to repatriate into their home country.

The role of legal services authorities in implementing the compensation scheme

The District and State Legal Services Authorities have been tasked with deciding compensation and giving other interim remedies to the victims. Sections 6 and 9 of the Legal Services Authorities Act, 1987, established the Legal Services Authority at the state and district levels to offer free legal services to underprivileged individuals in society. The DLSA and the SLSA are the two main agencies responsible for paying crime victims and/or their dependents. The authorities are required to examine the case and verify the facts in order to determine the appropriate amount of compensation for the victims. It is also their responsibility to assist the victims as soon as possible, particularly those who require medical assistance. In addition to the ability to distribute compensation, SLSA has the jurisdiction to decide appeals. Some states have explicitly defined the roles of DLSA and SLSA, whereas others have not. Odisha is one of the states that has listed the DLSA's functions, which include:

- Providing financial, legal, medical and psychological assistance as per the procedure prescribed
- Arranging support services as well as shelter for the victim
- Providing rehabilitation with educational or professional training
- Issuing directives to the concerned authorities for providing protection to the victim as well as the family.

DLSA/SLSA determines on compensation criteria before deciding on the amount of compensation to be awarded. The losses of the victim, medical expenses incurred, and the minimum sustenance level required for rehabilitation are all considerations they evaluate. These variables differ from state to state.

As a result, both the DLSA and the SLSA must be sensitive to the victim's grief and pain, as well as their demands and problems. Directives must be given to ensure that they get the best deal available in order to rehabilitate, re-assimilate, re-socialize, and live a good life. The procedure of transition must be made as simple as possible, and the burden imposed on the victims in obtaining certificates and other documentation work should be kept to a minimum. Interim help must be provided to victims, especially in cases of gang rape, acid attacks, and other severe crimes with little or no formalities or other technical procedures. As a result, the primary agencies, DLSA and SLSA, shall make every effort to give immediate assistance to the victims.

Need for an Overhaul of the Victim Compensation System for Affirmative Justice

The concept of affirmative justice emphasizes the protection, rehabilitation, and empowerment of victims rather than merely focusing on the punishment of offenders. In modern criminal jurisprudence, justice is not fully achieved when an offender is convicted; it also requires that victims receive adequate support to overcome the physical, emotional, and financial consequences of crime. Therefore, the victim compensation system must be viewed as an essential component of a victim-centric justice framework. Although India has established statutory provisions and victim compensation schemes, the existing system requires significant reforms to effectively achieve the objectives of affirmative justice. Financial compensation alone is often insufficient to address the complex needs of victims. Many victims require long-term medical treatment, psychological counselling, educational assistance, vocational training, and social rehabilitation.

A comprehensive approach is therefore necessary to ensure their recovery and reintegration into society. An effective victim compensation system should prioritise timely assistance. Delays in the disbursement of compensation often defeat the very purpose of providing relief. Victims of serious crimes such as sexual offences, acid attacks, human trafficking, and violent assaults require immediate support to address urgent medical and financial needs. Simplified procedures and faster decision-making mechanisms can significantly improve access to compensation. Uniformity in compensation schemes is another important requirement. At present, compensation amounts and implementation practices differ across States, resulting in unequal treatment of victims. A more standardised framework would promote consistency and fairness in the delivery of compensation. Furthermore, greater awareness must be created

regarding victims' rights and available compensation mechanisms. Legal Services Authorities, law enforcement agencies, and civil society organisations should actively disseminate information and assist victims in accessing available remedies. Affirmative justice demands a shift from a purely offender-oriented approach to one that recognises the dignity, rights, and welfare of victims. Strengthening the victim compensation system through legislative reforms, effective implementation, and comprehensive rehabilitation measures can contribute significantly to a more humane and inclusive criminal justice system. Such reforms would ensure that victims are not merely passive participants in criminal proceedings but are recognised as individuals entitled to protection, support, and meaningful justice.

Findings and Suggestions

Findings

The present study reveals that the victim compensation system has become an important component of the criminal justice process in India. Legislative provisions such as Sections 357 and 357A of the Code of Criminal Procedure, 1973 have contributed significantly towards recognizing the rights of victims and providing financial assistance to those affected by crime. The establishment of Victim Compensation Schemes by State Governments has further strengthened the framework for victim support. However, the study also identifies several shortcomings in the existing system. Many victims remain unaware of their right to seek compensation and the procedures involved in obtaining it. Delays in the processing of applications often prevent victims from receiving timely assistance. In addition, compensation amounts are frequently inadequate to meet the medical, psychological, and economic needs arising from criminal victimization. Variations in compensation schemes across different States also result in unequal treatment of victims. The study further finds that the present compensation mechanism focuses primarily on monetary relief and does not sufficiently address the broader objectives of rehabilitation and reintegration. Consequently, the system falls short of fully achieving the ideals of affirmative justice.

Suggestions

1. **Strengthening Awareness Programmes:** Government authorities, Legal Services Authorities, and law enforcement agencies should conduct awareness campaigns to educate victims about their rights and available compensation schemes.

2. **Timely Disbursement of Compensation:** A time-bound mechanism should be established to ensure that compensation is awarded and disbursed without unnecessary delays.
3. **Uniform Compensation Framework:** A standardized national framework may be introduced to reduce disparities in compensation amounts and implementation practices among States.
4. **Comprehensive Rehabilitation Measures:** Victim compensation should be supplemented with medical assistance, psychological counselling, educational support, skill development programmes, and rehabilitation services.
5. **Simplification of Procedures:** The process for applying for compensation should be simplified to make it more accessible, particularly for vulnerable and marginalized victims.
6. **Periodic Review of Compensation Amounts:** Compensation rates should be reviewed regularly to reflect changing economic conditions and the actual needs of victims.
7. **Enhanced Role of Legal Services Authorities:** District and State Legal Services Authorities should actively assist victims in filing applications and accessing available benefits.

The implementation of these measures would strengthen the effectiveness of the victim compensation system and promote a more victim-centric approach to justice. By addressing existing gaps and ensuring meaningful support for victims, the criminal justice system can move closer to achieving the objectives of affirmative justice.

Conclusion

The victim compensation system represents a significant step towards recognizing and protecting the rights of victims within the criminal justice system. Traditionally, criminal proceedings focused primarily on the offender, while the needs and interests of victims received limited attention. Over time, however, there has been a growing realization that justice cannot be achieved solely through the punishment of offenders. Victims who suffer physical injuries, emotional trauma, financial loss, and social hardships must also receive adequate

support and rehabilitation. The introduction of statutory provisions relating to victim compensation and the establishment of Victim Compensation Schemes have strengthened the position of victims in India. These measures reflect a progressive shift towards a victim-centric approach to justice. Judicial decisions have also played a crucial role in emphasizing that compensation is not merely a discretionary remedy but an important aspect of ensuring fairness and dignity for victims.

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