
COMPENSATION AND RESTORATIVE JUSTICE: INTEGRATING COMMUNITY BASED APPROACHES

Goran Chawla, LL.M. (Master of Laws), University Institute of Legal Studies, Chandigarh University, Mohali, Punjab, India.

Dr. Aditya Karwasra, Assistant Professor, University Institute of Legal Studies, Chandigarh University, Mohali, Punjab, India

ABSTRACT

This study examines compensation and restorative justice within India's evolving criminal process by connecting statutory mandates to community-based practices that repair harm. It situates compensation under "Section 395 of the Bharatiya Nagarik Suraksha Sanhita" as the successor to "Section 357 of the Code of Criminal Procedure, 1973", and the state-led "victim compensation scheme" under "Section 396 of the Bharatiya Nagarik Suraksha Sanhita" as the successor to "Section 357A of the Code of Criminal Procedure, 1973". It explains how these shifts preserve the compensatory architecture while sharpening duties of courts and legal services authorities. It also maps enabling provisions that support restorative outcomes, including "Section 359 of the Bharatiya Nagarik Suraksha Sanhita" on compounding of offences, plea bargaining under Chapter XXIII of the BNSS, and "Section 397 of the Bharatiya Nagarik Suraksha Sanhita" on free medical treatment for specified victims. These legal elements align with community-centric forums such as Lok Adalats under "Section 19 of the Legal Services Authorities Act, 1987" and community mediation signposted by the "Mediation Act, 2023". The abstract then distills key case law on compensation and victim-centric relief, including "*Delhi Domestic Working Women's Forum v. Union of India*¹", "*Bodhisattwa Gautam v. Subhra Chakraborty*²", "*Ankush Shivaji Gaikwad v. State of Maharashtra*³", "*Laxmi v. Union of India*⁴", "*Suresh v. State of Haryana*⁵", the "*Nipun Saxena v. Union of India*⁶", line of orders, a Delhi High Court ruling on the prospectivity of the Delhi Victim Compensation Scheme, and a Supreme Court decision dated 9 May 2024 that reaffirmed the duty to record reasons on compensation. The abstract concludes that statutory continuity, structured judicial guidance, and community-based resolution can be integrated through a practical roadmap

¹ (1995) 1 SCC 14.

² (1996) 1 SCC 490.

³ (2013) 6 SCC 770.

⁴ (2014) 4 SCC 427.

⁵ AIR 2015 SC 518.

⁶ (2019) 13 SCC 719.

that standardizes compensation triggers, harnesses Lok Adalat and community mediation for supervised restitution, and links community service under the “Bharatiya Nyaya Sanhita” to victim or community-defined repair. This integration reduces adversarial deadlock and strengthens a reparative public law response.⁷

Keywords Restorative justice; Victim compensation; BNSS 2023; Community mediation; Lok Adalat; NALSA scheme; Case law; Community service; Juvenile justice.

Introduction

Indian criminal law has moved from a narrow focus on punishment to a wider concern for victims, communities, and sustainable repair. The Constitution anchors this shift through equality under Article 14 and the life and personal liberty guarantee under Article 21, which the Supreme Court has used to broaden victim-centric remedies and procedural fairness. Parliament added a statutory stratum by introducing a dedicated victim compensation scheme in 2008 through “Section 357A of the Code of Criminal Procedure, 1973”, now carried forward as “Section 396 of the Bharatiya Nagarik Suraksha Sanhita”. Courts also retained power to apply fine-based compensation under “Section 357 of the Code of Criminal Procedure, 1973” now mirrored in “Section 395 of the Bharatiya Nagarik Suraksha Sanhita”. Together, these provisions enable immediate relief, structured rehabilitation, and long-term support, including when the offender is not identified or stands acquitted. This introduction explains why restorative justice is not a soft alternative, but a normatively grounded complement that delivers accountability and satisfaction to crime survivors while keeping due process intact. It situates compensation alongside other restorative tools like restitution, apology, and community service under the “Bharatiya Nyaya Sanhita”, as well as supportive duties like free medical treatment for sexual assault and acid violence survivors under “Section 397 of the Bharatiya Nagarik Suraksha Sanhita”. It then links statutory text to community forums that can operationalize repair in a timely fashion, such as Lok Adalats under the “Legal Services Authorities Act, 1987” and community mediation under the “Mediation Act, 2023”. The introduction also traces how Supreme Court guidance steadily converted compensation from discretion on paper to a near-constant duty to consider, with reasons needed when relief is declined. This backdrop sets the frame for an integrated pathway that makes compensation part of a community-anchored,

⁷ Comparison Summary: BNSS to CrPC, available at: <https://bprd.nic.in/uploads/pdf/Comparison summary BNSS to CrPC.pdf> (last visited on October 28, 2025).

court-supervised restorative justice architecture.⁸

Research Questions

The research questions for the study are as follows:-⁹

- to examine how statutory compensation under the BNSS can be integrated with restorative practices and community-based forums without compromising due process or equality.
- to assess the feasibility of linking compensation, restitution, and community service to structured community mediation or Lok Adalat pathways subject to judicial oversight.

Problem Statement

The statutory landscape remains fragmented across the BNSS compensation provisions, state schemes, and sectoral obligations like free medical care, while restorative pathways are not consistently connected to these monetary and non-monetary forms of repair. Enforcement suffers from uneven application across jurisdictions, limited recording of reasons when declining compensation, and inadequate alignment between legal services authorities and community forums. Community-based outcomes rarely feed into sentencing or post-conviction monitoring in a systematic way, which undercuts the promise of victim satisfaction and social reintegration.¹⁰

Objectives of the Study

The objectives of the study are as follows:-¹¹

- to doctrinally analyze statutes, rules, and judgments on compensation and restorative justice and to identify operational linkages with community processes.

⁸ Howard Zehr, *The Little Book of Restorative Justice* 134 (Good Books, Harrisonburg, 1st edn., 2002).

⁹ Victimology and Victims of Crimes: An Overview, available at: <https://www.legalserviceindia.com/legal/article-15844-victimology-and-victims-of-crimes-an-overview.html> (last visited on October 27, 2025).

¹⁰ Gauri Pillai, "Juvenile Maturity and Heinous Crimes: A Re-Look at Juvenile Justice Policy in India", 10 *NUJS Law Review* 49 (2017).

¹¹ Gerry Johnstone, *Restorative Justice: Ideas, Values, Debates* 122 (Routledge, London, 1st edn., 2002).

- to propose a model that connects B NSS compensation, Lok Adalat, community mediation under the Mediation Act, and community service under the BNS to create supervised, victim-centered outcomes.

Research Methodology

The study adopts a doctrinal method centered on statutory text, rules, and judicial decisions, reading these alongside policy materials and official mappings of B NSS provisions. Limited comparative references are used only to clarify structure or terminology where strictly necessary. Primary sources include the B NSS, the “Bharatiya Nyaya Sanhita”, the “Bharatiya Sakshya Adhiniyam”, the “Legal Services Authorities Act, 1987”, the “Mediation Act, 2023”, and the “Juvenile Justice (Care and Protection of Children) Act, 2015”, with a focus on official texts and institutional portals.¹²

Concepts and Theory

Restorative justice describes a set of practices that place harm, needs, and obligations at the center of response to crime. In the Indian context, it emerges through a mix of statutory duties and judicial supervision that can move beyond a bilateral offender-state lens. Core elements include repair of material and non-material harm to victims, offender accountability that looks beyond incarceration to meaningful acts of responsibility, and participation that can include victims, offenders, families, and communities where appropriate. Restorative justice does not discard retribution or deterrence; it supplements those aims by insisting that the process must also answer the victim’s immediate medical and livelihood needs, restore dignity, and strengthen community confidence. In India, these goals acquire legal form through compensation duties, community service in the BNS, and forums such as Lok Adalats and community mediation centers.¹³

Restorative Justice Basics

Restorative justice is best understood as a legal-ethical frame that insists harm must be addressed through remedies that the victim finds meaningful, and that the community can

¹² Victim Assistance in the Indian Criminal Justice System, *available at*: <https://blog.ipleaders.in/victim-assistance-indian-criminal-justice-system/> (last visited on October 26, 2025).

¹³ Mihnea Mandrescu, "Restorative Justice for Environmental Crimes in the EU: What Does It Take?", 60 *Journal of Offender Rehabilitation* 337 (2021).

endorse. Repair involves direct or indirect restitution, compensation, apologies, and supportive services. Accountability calls for actions that are proportionate and responsive to the crime's impact, including admissions and structured agreements that are enforceable. Participation requires safe and voluntary engagement of victims, with trauma-sensitive facilitation and guardrails against coercion. In Indian scholarship, these pillars are anchored by constitutional values and operationalized through statutory duties in the BNSS and allied laws. When courts link compensation and community service to supervised agreements, restorative justice becomes a legally coherent pathway rather than an aspirational slogan.¹⁴

Compensation Within Restorative Justice

Compensation operates as one part of a broader remedy matrix. It answers immediate financial and rehabilitation needs, while restitution, apology, and community service can address moral accountability and social reintegration. A compensation order cannot replace due process, proof standards, or the rights of the accused; it must follow or dovetail with a lawful adjudicatory route. Under the BNSS, compensation arises either as an adjunct to sentencing through court-directed payments or as a distinct state-funded scheme that does not depend on conviction. When embedded in a restorative plan, compensation can be released in tranches tied to medical care, education, or livelihood steps, with community oversight to maintain compliance and prevent secondary victimization by administrative delay.¹⁵

Retributive Versus Restorative Outcomes

Outcomes in retributive settings center on desert and punitive proportionality, while restorative outcomes emphasize repair and future safety. Procedurally, retributive processes rely on adversarial contest and formal proof, whereas restorative processes add voluntary engagement and structured dialogue under safeguards. Remedies differ: fines and incarceration dominate retributive responses, while restorative toolkits include compensation, restitution, apology, and community service. Roles expand within restorative practice, with victims gaining a voice in defining repair, and communities supporting reintegration. Timelines can improve when restorative tracks run in parallel with adjudication and feed into sentencing, though careful

¹⁴ John Braithwaite, *Crime, Shame and Reintegration* 176 (Cambridge University Press, Cambridge, 1st edn., 1989).

¹⁵ Victim Compensation Scheme in India, *available at:* <https://www.ijlsi.com/wp-content/uploads/Victim-Compensation-Scheme-in-India.pdf> (last visited on October 25, 2025).

design is necessary to avoid pressure on victims or dilution of proof standards. The table below summarizes core contrasts as they play out in India.¹⁶

Criteria ¹⁷	Retributive model	Restorative model
Goal	Punishment and deterrence	Repair of harm, accountability, reintegration
Process	Adversarial trial, formal proof	Voluntary engagement with safeguards, court supervision
Role of victim	Limited participation	Central voice in defining repair and outcomes
Typical remedies	Imprisonment, fine	Compensation, restitution, apology, community service
Timelines	Linked to trial length	Can run in parallel with adjudication and inform sentencing

Table 1. Retributive vs Restorative Outcomes in India

Statutory Framework in India

The framework for compensation and restorative justice blends court powers, state obligations, and community-facing forums. Court-directed compensation attached to sentence or in addition to fine has been retained in “Section 395 of the Bharatiya Nagarik Suraksha Sanhita”. State-funded compensation schemes required under “Section 396 of the Bharatiya Nagarik Suraksha Sanhita” carry forward the 2008 amendment strategy and now engage legal services authorities for assessment and disbursal, including interim relief. Enabling provisions encourage settlement and reparation in suitable categories through compounding of offences and plea bargaining, while preserving exclusion zones for serious crime. Health-system duties

¹⁶ Bhavya Sriram, S. Maheshwari, "Towards a Restorative Criminal Justice System: Victim Offender Mediation", 1 *NALSAR Student Law Review* 23 (2005).

¹⁷ *Supra* note 16.

under “Section 397 of the Bharatiya Nagarik Suraksha Sanhita” ensure immediate free medical treatment for defined offences. Parallel civil-society and statutory forums such as Lok Adalats and community mediation can host supervised agreements that embody restorative outcomes.¹⁸

CRPC to BNSS Transition

The transition from the CrPC to the BNSS maintains compensation as a judicial tool and as a state obligation. “Section 357 of the Code of Criminal Procedure, 1973” corresponds to “Section 395 of the Bharatiya Nagarik Suraksha Sanhita”, preserving the court’s power to provide compensation from fines or otherwise. “Section 357A of the Code of Criminal Procedure, 1973” corresponds to “Section 396 of the Bharatiya Nagarik Suraksha Sanhita”, preserving the requirement that every State frame a victim compensation scheme administered through State and District Legal Services Authorities, with scope for interim relief. The mapping is formally acknowledged in official ready-reckoners and legislative summaries, which also record “Section 397 of the Bharatiya Nagarik Suraksha Sanhita” as the successor to “Section 357C of the Code of Criminal Procedure, 1973” on free medical treatment for specified offences.¹⁹

Victim Compensation Scheme

The BNSS mandates that States maintain a scheme to compensate victims who have suffered loss or injury and require rehabilitation, including where the offender is unidentified or acquitted. Legal Services Authorities at the State and District levels assess claims, grant interim relief when urgent needs arise, and coordinate with health, education, and social welfare departments for effective rehabilitation. The scheme runs in addition to any court-directed compensation under “Section 395 of the Bharatiya Nagarik Suraksha Sanhita”, and it may be engaged independently of conviction, which widens access in cases of attrition or evidentiary failure. Judicial directions in recent years have stressed prompt assessment and disbursal to avoid attrition of rights through procedural delay.²⁰

¹⁸ Theo Gavrielides, *Restorative Justice Theory and Practice: Addressing the Discrepancy* 158 (HEUNI, Helsinki, 1st edn., 2007).

¹⁹ Bharatiya Nagarik Suraksha Sanhita, 2023: A Quick Guide, available at: <https://www.mha.gov.in/en/notifications/bnss-2023-quick-guide> (last visited on October 24, 2025).

²⁰ Dhananjay Dube, "Victim Compensation Schemes in India: An Analysis", 13 *International Journal of Criminal Justice Sciences* 1 (2018).

NALSA's 2018 Scheme for Women Victims

The Supreme Court endorsed and disseminated the “NALSA’s Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018” during proceedings in *Nipun Saxena v. Union of India*²¹, directing circulation to all High Courts, District Judges, Special Courts, and Legal Services institutions. The Scheme standardizes compensation slabs, provides for interim awards to meet urgent needs, and details funding through the State Legal Services Authorities, with monitoring to secure actual receipt by beneficiaries. It also interfaces with POCSO processes and privacy safeguards. These judicial directions placed a clear onus on State systems to adopt uniform floors and to publicize scheme access, which in turn aligns compensation delivery with restorative aims of medical, psychological, and livelihood rehabilitation.²²

Related Provisions That Enable RJ

Several provisions strengthen restorative choices while safeguarding legality. Plea bargaining has been retained with BNSS renumbering in Chapter XXIII, including “Section 290 of the Bharatiya Nagarik Suraksha Sanhita” on application for plea bargaining and other linked sections on procedure and court powers. Compounding of offences is addressed in “Section 359 of the Bharatiya Nagarik Suraksha Sanhita”, which mirrors the CrPC structure while updating references to the “Bharatiya Nyaya Sanhita”. Free medical treatment duties now appear in “Section 397 of the Bharatiya Nagarik Suraksha Sanhita”, and have been recently reiterated by the Delhi High Court for public and private hospitals treating survivors of sexual assault and acid violence. The “Juvenile Justice (Care and Protection of Children) Act, 2015” spots rehabilitation and social reintegration as a central aim, including probation, community service under the Model Rules, and individualized care plans, which further reflect restorative values in youth contexts.²³

Community Service under BNS

The “Bharatiya Nyaya Sanhita” introduces community service as a penalty in multiple minor

²¹ *Supra* note 6.

²² *Nipun Saxena v. Union of India & Ors.*, available at: <https://judicialacademy.nic.in/sites/default/files/24.Nipun%20Saxena%20v.%20Union%20of%20India%20%26%20Ors..pdf> (last visited on October 27, 2025).

²³ Plea Bargaining under BNSS, available at: <https://bprd.nic.in/uploads/pdf/202401290624581538333Pleabargaining-BNSS.pdf> (last visited on October 26, 2025).

and mid-range offences, creating space for courts to impose acts that benefit victims or communities while holding offenders to task. Community service may be chosen in place of short custodial terms or fines in select categories and can be tailored to the harm pattern, for example by directing work that supports survivor-focused institutions or community facilities. Public summaries list a number of sections where community service is available, including offences involving negligent conduct, defamation variants, and certain non-violent public order harms, among others. When linked to a supervised plan through Lok Adalat or community mediation, such service can operationalize apology and restitution beyond a monetary transfer.²⁴

Theme ²⁵	CrPC provision	BNSS provision	Responsible authority	Key effect
Court-ordered compensation	Section 357	Section 395	Trial/Appellate court	Compensation from fine or otherwise attached to sentence
State scheme compensation	Section 357A	Section 396	SLSA/DLSA	State-funded compensation including interim relief, independent of conviction
Free medical treatment	Section 357C	Section 397	Hospitals and police liaison	Immediate free first-aid and medical treatment for specified offences
Plea bargaining	Sections 265A-L	Chapter XXIII including Section 290	Court and prosecution with accused and victim input	Time-bound plea process with judicial oversight

²⁴ Community Service Sentencing and Its Significance in the Indian Criminal Justice System, *available at*: <https://www.livelaw.in/articles/community-service-sentencing-and-its-significance-in-the-indian-criminal-justice-system-248589> (last visited on October 22, 2025).

²⁵ Community Service Sentencing and Its Significance in the Indian Criminal Justice System, *available at*: <https://www.livelaw.in/articles/community-service-sentencing-and-its-significance-in-the-indian-criminal-justice-system-248589> (last visited on October 22, 2025).

Compounding	Section 320	Section 359	Court and complainant/victim per table	Strikes suitable cases to settlement with acquittal effect
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Table 2. CrPC vs BNSS: Compensation and Related Provisions**Landmark and Recent Jurisprudence**

Judicial guidance has transformed compensation from a peripheral add-on to a structured victim right in practice. Early decisions built a framework of victim support, privacy, and interim compensation, which later cases converted into decisive duties on courts to consider relief in every case and to record reasons on refusal. The Supreme Court has also developed standard-setting norms for specific harms such as acid violence and sexual assault, while High Courts have clarified scheme reach and temporal scope, including the prospectivity of state victim compensation schemes. Recent pronouncements continue to cite "*Ankush Shivaji Gaikwad v. State of Maharashtra*"²⁶, for the duty to address compensation, while orders in *Nipun Saxena v. Union of India*"²⁷, sustain the uniformity of relief for women and children. This section presents the facts and holdings of key decisions that shape the present framework.²⁸

Delhi Domestic Working Women's Forum v. Union of India, 1995 SCC 1 14

In the case of "*Delhi Domestic Working Women's Forum v. Union of India*"²⁹, the Supreme Court considered the plight of six domestic workers who were sexually assaulted on a train journey and who then encountered serious procedural hurdles in lodging complaints, securing counsel, and maintaining privacy during investigation and trial. The petitioners brought a writ seeking directions that would ensure dignified treatment, counseling, legal assistance, and compensation for rape survivors. The factual matrix revealed lapses in police handling and the absence of an institutional structure to protect survivors from secondary victimization across the criminal process. The Court took judicial notice of these systemic failures and recognized that victims of sexual assault face unique harm with long-term consequences that include

²⁶ *Supra* note 3.

²⁷ *Supra* note 6.

²⁸ Abhinav Garg, "Delhi High Court Rules Victim Compensation Scheme Not Applicable Retrospectively; 1984 Riot Claim Rejected", available at: <https://timesofindia.indiatimes.com/city/delhi/delhi-high-court-rules-victim-compensation-scheme-not-applicable-retrospectively-1984-riot-claim-rejected/articleshow/123264953.cms> (last visited on October 25, 2025).

²⁹ *Supra* note 1.

medical trauma, social stigma, and economic dislocation, which require targeted public measures beyond conventional criminal prosecution. On judgment, the Supreme Court issued a set of directions that have come to shape Indian victimology. It directed that rape survivors be provided legal representation at the earliest stage, informed of their rights, and protected from identity disclosure. The Court also set out that criminal compensation boards consider the circumstances comprehensively, including medical costs, the trauma endured, and ramifications such as childbirth resulting from assault, when awarding compensation. It emphasized that compensation must be prompt, realistic, and sensitive to both tangible and intangible harm. By mandating legal aid engagement and privacy measures, the Court scaffolded a victim-centered process that would be replicated in later guidelines and schemes. The decision thus inaugurated a doctrinal and administrative approach that blends survivor support with compensation, laying a cornerstone for the later statutory scheme under the BNSS successor to “Section 357A of the Code of Criminal Procedure, 1973” and closely aligning with restorative goals that seek repair, voice, and acknowledgment.³⁰

Bodhisattwa Gautam v. Subhra Chakraborty,

In the case of “*Bodhisattwa Gautam v. Subhra Chakraborty*³¹”, the Supreme Court addressed a petition involving allegations of rape and exploitation linked with false assurances of marriage, which led to protracted criminal proceedings and continuing harm to the complainant. The factual posture included questions about the authenticity of marriage claims and the persistence of injury to dignity and bodily autonomy, which the Court read through the lens of Article 21. The Court evaluated the extraordinary jurisdiction under Article 32 to grant interim relief that protects fundamental rights, and it responded to the continuing harm by recognizing rape as a violation of the right to life and personal liberty. Turning to remedy, the Supreme Court ordered interim compensation payable to the complainant during the pendency of proceedings, and framed this as a constitutional response rather than a mere procedural indulgence. The judgment held that courts could, in appropriate cases, direct interim payments to mitigate immediate hardship, including medical needs and livelihood disruption, while the criminal trial took its course. The decision signaled that victim-centric relief could be fashioned within constitutional writ jurisdiction, especially where state processes failed to deliver timely

³⁰ Delhi Domestic Working Women’s Forum v. Union of India, *available at*: https://www.law.cornell.edu/gender-justice/resource/delhi_domestic_working_women%27s_forum_v_union_of_india (last visited on October 24, 2025).

³¹ *Supra* note 2.

support. On the merits, the Court did not decide criminal guilt, but its reasoning squarely positioned rape as an affront to Article 21, and placed the judiciary's role within a rights-protective horizon that includes compensatory intervention. The holding directly influenced later compensation jurisprudence by showing that relief can precede final conviction and can be justified under fundamental rights safeguarding dignity and bodily integrity. By construing interim compensation as a constitutional measure, the Court helped chart a path that the statutory scheme would later normalize for a broader class of cases through State Legal Services Authorities.³²

Ankush Shivaji Gaikwad v State of Maharashtra,

In the case of *Ankush Shivaji Gaikwad v. State of Maharashtra*³³, the Supreme Court considered an appeal arising from a conviction in which the question of compensation under the then "Section 357 of the Code of Criminal Procedure, 1973" had not been addressed. The factual narrative involved a homicide trial culminating in conviction and sentence, but without any meaningful analysis of whether compensation should be granted to the victim's dependents. The Court surveyed precedent and the statutory text to underline that criminal courts must apply their mind to compensation in every case, and that any refusal to grant compensation must be backed by reasons. It clarified that the power to award compensation is not ancillary to sentence but a substantive addition that recognizes victim harm. On judgment, the Supreme Court laid down a set of operational norms. Courts are required to consider the capacity of the offender to pay, to conduct a summary inquiry where necessary, and to record reasons on grant or refusal. The use of the word "may" in the statute does not license silence; it obliges judicial engagement. The Court remitted the case for consideration of compensation consistent with these standards. The decision recast compensation from a rarely-invoked discretion into a structured duty to consider, and it has since been cited across High Courts and later Supreme Court orders. In Indian practice, Ankush functions as the central citation for the proposition that reasons are mandatory when compensation is declined. The case stands at the intersection of retributive sentencing and restorative concern for victims, making compensation a visible

³² Shri Bodhisattwa Gautam v. Miss Subhra Chakraborty, available at: https://elaw.org/wp-content/uploads/archive/Shri_Bodhisattwa_Gautam_vs_Miss_Subhra_Chakraborty_on_15_December%2C_1995.PDF (last visited on October 23, 2025).

³³ *Supra* note 3.

part of the sentencing canvas rather than a peripheral afterthought.³⁴

Laxmi v. Union of India,

In the case of “*Laxmi v. Union of India*³⁵”, the Supreme Court heard a public interest litigation that documented the scale and persistence of acid attacks and the systemic gaps in prevention, regulation of acid sale, and survivor rehabilitation. The record showed easy availability of corrosive substances, inadequate tracking of sale, and a patchy support system for survivors who faced lifelong medical procedures and social exclusion. The Court’s earlier interim orders convened ministries and States to plan regulatory controls and set in motion a suite of measures on sale, storage, and purchaser identity. When the matter returned, the Court fixed a uniform minimum compensation of three lakh rupees per acid attack survivor and directed States and Union Territories to align their victim compensation schemes accordingly, while mandating immediate free medical treatment in public and private facilities. It required strict regulation of acid sale, including identity verification and transaction recording, and asked authorities to ensure availability of reconstructive surgery and aftercare. The holding tethered compensation to real rehabilitation, not merely symbolic sums. These directions have since been embedded in official practice and continue to inform both State schemes and judicial orders that enforce minimum compensation floors and medical care obligations under “Section 397 of the Bharatiya Nagarik Suraksha Sanhita”. In combining prevention, compensation, and medical rights, the case exemplifies a restorative remedy complex that treats dignity and long-term health as core legal entitlements rather than adjunct benefits.³⁶

Suresh v. State of Haryana,

In the case of *Suresh v. State of Haryana*³⁷, the Supreme Court reviewed a conviction in a grave crime where the High Court had not addressed compensation under “Section 357A of the Code of Criminal Procedure, 1973”. The factual canvas included kidnapping and murder, with the victim’s family left without structured relief from the State scheme. The Court surveyed the 2008 amendment introducing “Section 357A of the Code of Criminal Procedure, 1973” and

³⁴ Ankush Shivaji Gaikwad v. State of Maharashtra, *available at*: <https://www.courtkutchehry.com/judgements/668948/ankush-shivaji-gaikwad-vs-state-of-maharashtra/> (last visited on October 22, 2025).

³⁵ *Supra* note 4.

³⁶ Laxmi v. Union of India and Others, *available at*: <https://www.casemine.com/judgement/in/5790b247e561097e45a4e2a3> (last visited on October 21, 2025).

³⁷ *Supra* note 5.

underscored that the scheme is designed to provide rehabilitation whether or not conviction is recorded. It reaffirmed that “Section 357 of the Code of Criminal Procedure, 1973” and “Section 357A of the Code of Criminal Procedure, 1973” are cumulative tracks, and a denial under one cannot justify silent neglect of the other. On judgment, the Court directed authorities to re-examine compensation under the state scheme and reinforced time-bound processing. The Court’s articulation has since been read as clarifying the relationship between court-ordered compensation and state-funded relief, and as a reminder that reasons are required when relief is not granted. By placing the onus on State agencies to evaluate eligibility even after trial outcomes, Suresh closed a gap that often left survivors without support when conviction failed or appeals altered sentence. The decision therefore strengthened the scheme’s reach and knitted compensation more tightly into a rights framework that treats rehabilitation as part of criminal justice rather than a postscript.³⁸

Nipun Saxena v. Union of India

In the case of *Nipun Saxena v. Union of India*³⁹, the Supreme Court confronted persistent deficits in the treatment of women and child survivors of sexual assault, including identity protection, compensation uniformity, and the quality of survivor services. The record prompted the Court to direct nationwide circulation and adoption of the “NALSA’s Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018”, with instructions to Registrars General and Legal Services Authorities to ensure dissemination down to Special Courts. The order dated 11 December 2018 detailed operational safeguards on identity disclosure, urged prompt release of interim compensation, and allowed deposit strategies that protect beneficiaries from misuse while ensuring funds remain accessible for medical and rehabilitation needs. The Court treated the Scheme as a common baseline while allowing States to tailor specific slabs, and it connected the Scheme to POCSO proceedings and survivor privacy. In practical terms, Nipun Saxena moved compensation from a discretionary patchwork to a nationally guided template, secured through judicial supervision and legal services infrastructure. By directing uniform floors and publicizing access, the Court turned compensation into a predictable entitlement that survivors and counsel could invoke early, and that Special Courts could enforce through structured orders. The decision complements “Section 396 of the Bharatiya Nagarik Suraksha Sanhita”, and its focus on

³⁸ Aditi Yadav, "Case Analysis: Suresh v. State of Haryana (2015) 2 SCC 227", available at: <https://www.ijllr.com/post/case-analysis-suresh-v-state-of-haryana-2015-2-scc-227> (last visited on October 20, 2025).

³⁹ *Supra* note 6.

identity protection and child-sensitive processes embeds restorative principles of dignity and non-traumatization into everyday practice.⁴⁰

Recent High Court Trend on Scheme Applicability

In the case of *Delhi High Court decision on DVCS retrospectivity*⁴¹, the High Court considered whether the Delhi Victim Compensation Scheme could be applied to incidents predating the statutory scheme's introduction and whether claimants who had received ex gratia relief under other programs could seek additional amounts under the Scheme. The factual background involved a 1984 anti-Sikh riot victim's family that had already received compensation under various central and state initiatives. The bench analyzed the textual link between the Delhi scheme and "Section 357A of the Code of Criminal Procedure, 1973" and concluded that the scheme is prospective, tied to the statutory introduction of victim compensation, and not intended to open a retrospective window for stale claims. It further held that claimants who have already received compensation under other government schemes may be excluded by the scheme's own eligibility clauses, which prevent double recovery. The Court directed that pending claims by similarly placed victims be processed promptly under applicable current schemes where eligibility exists. While the ruling protects scheme integrity and financial predictability, it also raises policy questions on whether certain mass-atrocity contexts warrant tailored residual relief. The decision sharpens the temporal boundary of scheme applicability and underscores the need for clear drafting to avoid overlapping entitlements.⁴²

Supreme Court 2024 Reference to Ankush Shivaji Gaikwad

In the case of "Supreme Court judgment 09 May 2024 referencing Ankush Shivaji Gaikwad"⁴³, the Court revisited the duty to consider compensation at sentencing and to record reasons wherever relief is declined. The facts involved sentencing in which the trial court had not addressed compensation with the rigor demanded by prior precedent. The Supreme Court cited "*Ankush Shivaji Gaikwad v. State of Maharashtra*"⁴⁴, to reaffirm that courts must turn their mind

⁴⁰ Nipun Saxena v. Union of India — Compensation and One-Stop Centres, *available at*: <https://www.scconline.com/blog/post/2018/12/11/nipun-saxena-v-union-of-india-supreme-court-issues-directions-on-sexual-offences/> (last visited on October 19, 2025).

⁴¹ 2025.

⁴² Saurabh Singla, "Reforming Criminal Justice: Evaluating the Efficacy of Restorative Justice Practices in Reducing Recidivism Rates", 2 *Indian Journal of Law* 32 (2024).

⁴³ *Supra* note 3.

⁴⁴ *Supra* note 3.

to compensation, examine paying capacity, and issue a speaking order on grant or refusal. The bench emphasized that silence is not an option and that summary inquiries can be conducted where the record is unclear on the offender's means. The Court aligned these directions with the statutory continuity under the BNSS, making clear that the renumbering from "Section 357 of the Code of Criminal Procedure, 1973" to "Section 395 of the Bharatiya Nagarik Suraksha Sanhita" does not dilute the normative duty. The holding also reminded High Courts, in appellate or revisional jurisdiction, to correct omissions on compensation and to ensure that scheme-based relief under "Section 396 of the Bharatiya Nagarik Suraksha Sanhita" is considered where warranted. By reiterating Ankush in 2024, the Court maintained a steady doctrinal line that keeps victims in view across trial and appeal.⁴⁵

Community-based Approaches: Integration Pathway

An integrated pathway connects compensation, restitution, apology, and community service to supervised community-based processes. Lok Adalats under "Section 19 of the Legal Services Authorities Act, 1987" can host structured settlement discussions that incorporate victim compensation orders and enforceable acknowledgments of wrongdoing, with awards deemed decrees of civil courts. Community mediation established by the "Mediation Act, 2023" can, in suitable offences and post-conviction contexts, support supervised dialogues that yield practical undertakings and time-bound payment plans. Where BNSS plea bargaining is appropriate, settlements may include compensation commitments backed by court orders and monitored by Legal Services Authorities. In youth cases, the "Juvenile Justice (Care and Protection of Children) Act, 2015" supports community-based rehabilitation and service plans consistent with restorative ideals. Courts can then translate these outcomes into sentencing orders or post-sentence supervision, including community service under the "Bharatiya Nyaya Sanhita", with the Legal Services Authorities acting as nodal monitors to verify compliance and to trigger interim releases under "Section 396 of the Bharatiya Nagarik Suraksha Sanhita" when medical or livelihood needs arise. This pipeline supplies clarity to victims, accountability to offenders, and legitimacy to community forums.⁴⁶

⁴⁵ Community Service, Bharatiya Nyaya Sanhita, and Supreme Court's Approach to Compensation, *available at*: <https://www.livelaw.in/lawschool/articles/community-service-bharatiya-nyaya-sanhita-indian-penal-code-juvenile-justice-act-national-crime-records-bureau-260813> (last visited on October 28, 2025).

⁴⁶ Lok Adalats, *available at*: <https://nalsa.gov.in/lok-adalats/> (last visited on October 19, 2025).

Health Duties and Rehabilitation: Statutory Anchors

Operational integration also depends on health-system duties. “Section 397 of the Bharatiya Nagarik Suraksha Sanhita” mandates immediate free medical treatment for defined offences, with Delhi High Court reiterations making clear that both public and private hospitals must comply. These duties mesh with the compensation scheme’s interim relief for medical needs and ensure that a survivor is not left to negotiate admissions or pay deposits. Lok Adalats and community mediation can incorporate hospital certificates and rehabilitation plans into structured settlements so that compensation tranches are released in sync with treatment cycles. For child survivors, POCSO-linked protocols and confidentiality requirements must be strictly followed, which Nipun Saxena consolidated through national directions. This alignment ties statutory health entitlements to restorative outcomes, strengthens survivor trust, and keeps the focus on recovery rather than procedural attrition.⁴⁷

Conclusion

The analysis demonstrates clear statutory continuity from the CrPC to the BNSS while sharpening operational duties at trial and sentencing. BNSS §395 retains and clarifies the court’s power to award compensation; §396 obliges State and District Legal Services Authorities to assess and disburse scheme-based compensation, including interim relief and even where trials fail or end in acquittal; and §397 codifies immediate, free medical treatment for specified offences-each a pillar of a reparative response. Compounding of offences under §359 and the calibrated, victim-involving architecture of plea bargaining in Chapter XXIII (§§289–300) create lawful spaces for negotiated accountability that can incorporate compensation, restitution, and apologies without compromising proof standards. Parallel forums-Lok Adalats (whose awards are deemed civil decrees) and community mediation under the 2023 Mediation Act-supply accessible venues for time-bound, supervised agreements. Jurisprudence consolidates these norms: Delhi Domestic Working Women’s Forum set early victim-centred guardrails; Bodhisattwa Gautam constitutionalised interim compensation; Ankush Shivaji Gaikwad converted “may” into a duty-to-consider with reasons; Laxmi tied minimum compensation and medical rights to real rehabilitation; Suresh clarified the

⁴⁷ Delhi High Court Issues Specific Directions on Free Medical Treatment to Rape, Acid Attack, and POCSO Case Victims/Survivors by All Public/Private Hospitals, *available at*: <https://www.scconline.com/blog/post/2025/01/03/delhi-hc-issues-specific-directions-provision-free-medical-treatment-rape-acid-attack-pocso-victims-survivors-hospitals-public-private/> (last visited on October 28, 2025).

cumulative tracks of court-ordered and scheme-based compensation; Nipun Saxena disseminated the NALSA 2018 Scheme nationwide; and the Supreme Court on 09-May-2024 reiterated that sentencing without addressing compensation is legally inadequate. Collectively, these create a doctrinal and procedural spine for an integrated, restorative practice.

At the same time, limits and risks are real. Uneven implementation persists across jurisdictions—especially in recording reasons on compensation, the speed and predictability of interim awards, and hospital compliance with free-treatment mandates—creating postcode lotteries for survivors. Community-based forums can slip into coercive dynamics if safeguards are weak; plea bargaining and compounding require vigilant judicial screening in excluded or sensitive categories; and “community service” under the BNS demands clearer definition, monitoring, and alignment with victim or community-articulated needs. High Courts are still ironing out temporal and eligibility boundaries of state schemes (for example, prospectivity in Delhi), underscoring the need for precise drafting and data-backed funding. Finally, the ecosystem requires “plumbing”: digital intake, multilingual interfaces, and SLSA/DLSA presence at sentencing; transparent dashboards for compliance; and appellate correction where trial courts omit Ankush-mandated reasoning. The feasible pathway, therefore, is not to replace retribution or deterrence but to standardise compensation triggers, embed supervised community-based reparation, and couple these with enforceable health-and-rehabilitation entitlements—so that restorative justice becomes a routine, rights-anchored outcome rather than an aspirational slogan.⁴⁸

Suggestions

Building on the theme of integrating compensation with restorative, community-based approaches, the following proposals translate the analysis into practice.

1. **Adopt a sentencing-stage “Compensation Checklist”.** The High Court should issue a practice direction requiring trial courts to complete a one-page checklist that captures victim loss, offender means, scheme eligibility, and reasons when compensation is declined. This document must be annexed to every judgment to satisfy Ankush and the 09-May-2024 reaffirmation of the duty to consider compensation. Appellate benches

⁴⁸ K. Padmanabhan, "Relevance of ADR in Criminal Trials in Securing Restoration of Real Justice", 9 *Journal of Law and Public Policy* 41 (2019).

should treat a missing or perfunctory checklist as an error warranting remand for reasoned consideration.

2. **Seat DLSA/SLSA at sentencing.** Mandate DLSA presence at all sentencing hearings where harm is established, with a standard form to trigger Section 396 scheme assessment on the spot. The DLSA must file a timeline for interim release (medical/education/livelihood) within seven days and a full award recommendation within 30 days. Courts should record non-compliance and list the matter for monitoring until payment confirmation is filed. This closes the gap between judgment and rehabilitation.
3. **Use Lok Adalat for supervised restitution.** For compoundable/plea-amenable matters, refer parties to a Lok Adalat session to record an enforceable compensation schedule, apology text, and any restitution undertakings. The award-deemed a civil decree-must specify due dates, bank details, and default consequences. Trial courts should incorporate the award by reference at sentencing to avoid duplication. DLSA should verify completion and report back within fixed intervals.
4. **Stand up community-mediation panels under the Mediation Act, 2023.** District courts should maintain a vetted roster of mediators trained in trauma-sensitive practice, with a protocol for suitable categories and explicit exclusion zones. Settlement templates must include compensation tranches, support services, and compliance milestones, plus a clause for judicial conversion into a decree/order. Any power imbalance indicators (e.g., family pressure, financial dependence) should trigger compulsory judicial review before acceptance. Annual audits must evaluate settlement durability and re-victimization rates.
5. **Operationalise BNSS Section 397 health entitlements.** Direct all public and private hospitals to display conspicuous boards stating free treatment rights for sexual-violence and acid-attack survivors; require zero-deposit admission, ambulance transfers, and treatment certificates for scheme claims. Police SOPs must include hospital escort and documentation checklists. Trial courts should insist on Section 397 compliance certificates before concluding evidence in relevant cases. DLSA should auto-release interim medical compensation aligned to treatment milestones.

6. **Define and monitor community service under the BNS.** State governments should publish offence-wise, court-usable menus (e.g., 40–240 hour bands) aligned with BNS examples (petty theft first-offence, intoxication in public, etc.), including supervision, safety, and verification protocols. Orders must tie service sites to the harm pattern (e.g., assisting survivor-support facilities or community infrastructure) and specify reporting authorities. Non-completion should trigger graduated sanctions and substitution with fines or custody per statutory limits. Quarterly dashboards should disclose completions, defaults, and victim satisfaction.
7. **Standardise compounding and plea-bargain content.** For Section 359 compounding and Chapter XXIII bargains, require a “restorative annexure” that records compensation amounts, payment schedules, apologies, and any service tasks. Judges should verify voluntariness in-camera (as Section 290 already requires) and bar settlements in excluded/serious categories. Non-payment must auto-restore proceedings or permit civil execution per decree norms. Templates and training should be circulated to all trial courts.
8. **Create multilingual digital intake for Section 396 claims.** Build a single-window portal (web + kiosk) with Aadhaar-enabled e-KYC, bank-account validation, and status tracking for victim compensation, including NALSA 2018 Scheme slabs in sexual-offence cases. Auto-alerts should remind DLSA/SLSA of statutory timelines; escalation goes to Registrar (Vigilance) after fixed breaches. Publish anonymised turnaround-time and payment-success metrics. Integrate with hospital MIS so treatment certificates flow directly to the claim file.
9. **Embed juvenile-specific restorative pathways.** Juvenile Justice Boards should prefer community service, counselling, and supervised mediation (with strict safeguards) for appropriate youth cases, linking Section 396 interim funds to education/health plans. Model Rules already define community service for children; states should issue activity catalogues and safety standards. JJB orders must appoint a nodal probation officer to file monthly compliance notes. Any dialogue-based process must be strictly voluntary and child-safe.
10. **Tighten appellate correction and prospectivity clarity.** High Courts should adopt a standing order that, in every criminal appeal/revision, benches must check for

compensation reasoning, scheme referral, and Section 397 compliance and rectify omissions. Where state schemes raise temporal/eligibility ambiguities (e.g., prospectivity), issue clarificatory judgments and direct governments to amend rules and FAQs accordingly. Registry circulars should also require trial courts to append proof of payment or a live enforcement plan before transmitting records. Annual High Court reports should publish compliance statistics to drive accountability.

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