
VICTIM COMPENSATION: AN ASSESSMENT OF RECENT APPROACHES IN AWARD OF COMPENSATION TO VICTIMS IN INDIA

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1. Introduction

Victims are the most overlooked stakeholders in India's criminal justice system. They initiate legal proceedings by reporting crimes but often become sidelined during trials. It is critical to evaluate how a conviction affects victims, as many remain without remedies for their losses or injuries despite the accused's sentencing. Victims, who endure profound suffering, must not be forgotten while justice is served. They can be categorized into four types:

- a) **Primary crime victims:** Individuals directly harmed by a crime, or their legal heirs, entitled to compensation under existing laws, such as survivors of rape or families of the deceased.¹
- b) **Secondary crime victims:** Those indirectly affected, such as partners of rape survivors or children of abused women.²
- c) **Tertiary crime victims:** Individuals impacted vicariously through media or television coverage of crimes.³
- d) **Invisible crime victims:** A neglected group, such as the spouse or dependents of a convicted offender, who suffer due to the offender's imprisonment.⁴

What measures are necessary to support these victims? The Supreme Court of India has

¹ See *Code of Criminal Procedure, 1973*, § 2(wa), No. 2, *Acts of Parliament, 1974 (India)*; *Bharatiya Nagarik Suraksha Sanhita, 2023*, § 2(1)(zb), No. 46, *Acts of Parliament, 2023 (India)*.

² Andrew Karmen, *Crime Victims: An Introduction to Victimology* 25–27 (9th ed. 2016).

³ *Id.* at 28.

⁴ See Susan F. Sharp, *Hidden Victims: The Effects of the Death Penalty on Families of the Accused* 15–18 (2005).

observed that while safeguarding convicts' rights, "we cannot forget the victim or his family in case of his death or who is otherwise incapacitated to earn his livelihood because of the criminal act of the convict."⁵ Victims are entitled to reparation, restitution, rehabilitation, and protection of their rights. A criminal justice system that fails to deliver justice to victims is fundamentally deficient. The field of victimology is gaining prominence alongside efforts to reform prisons and protect prisoners' rights.⁶ Victims cannot remain the "forgotten" or "neglected" figures in this system, as they and their families bear the brunt of crimes, including loss of life, bodily injury, reputation, or dignity. While no compensation can fully restore lost honor or life, monetary relief provides some solace, as mandated under frameworks like Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced Section 357A of the CrPC in 2024.⁷

Recent judicial and legislative developments underscore this shift toward victim-centric justice. The Supreme Court's 2023 rulings, such as in *Nipun Saxena v. Union of India*, emphasized timely compensation and standardized amounts, particularly for sexual assault and acid attack survivors (e.g., minimum ₹3 lakh for acid attack victims).⁸ The BNSS reinforces state obligations to fund compensation schemes, supported by the Central Victim Compensation Fund (CVCF).⁹ However, challenges persist, including inconsistent state schemes, delays in disbursement, and low awareness, as noted in recent studies.¹⁰ Addressing these gaps requires uniform guidelines and increased funding to ensure victims receive timely justice.

2. The Conceptual Analysis of 'Victim Compensation'

The term "victim" in India's criminal justice system is defined as a person who has suffered loss or injury due to the act or omission for which an accused is charged, including their guardian or legal heir.¹¹ Victims typically have limited influence over investigations or prosecutions. However, recent legal reforms, such as those under the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), allow victims to appeal judgments involving acquittals,

⁵ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770, ¶ 24 (India).

⁶ See G.S. Bajpai & Shriya Gauba, *Victim Justice: A Paradigm Shift in the Indian Criminal Justice System* 12–14 (2016).

⁷ *Bharatiya Nagarik Suraksha Sanhita, 2023*, § 396, No. 46, Acts of Parliament, 2023 (India).

⁸ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (noting 2023 orders in ongoing writ).

⁹ Ministry of Home Affairs, *Central Victim Compensation Fund Guidelines*, ¶ 3 (Oct. 2, 2015).

¹⁰ See *Victim Compensation in India: An Analysis*, 55 *Econ. & Pol. Wkly.* 45, 47 (2020).

¹¹ *Bharatiya Nagarik Suraksha Sanhita, 2023*, § 2(1)(zb), No. 46, Acts of Parliament, 2023 (India); see also *Code of Criminal Procedure, 1973*, § 2(wa), No. 2, Acts of Parliament, 1974 (India).

convictions for lesser offenses, or inadequate compensation.¹² Despite these provisions, victims' powers remain restricted, with no right to challenge prosecutorial decisions during proceedings, except post-verdict.¹³ In contrast, the rights of the accused are robustly protected under Article 21 of the Constitution, as affirmed by Supreme Court rulings on fair and speedy trials, prohibitions against solitary confinement, restrictions on handcuffing, and standardized arrest procedures.¹⁴ Courts are equally obligated to safeguard victims' interests, yet this balance is often uneven.¹⁵

Etymologically, a "victim of crime" refers to a person who experiences injury, loss, or hardship due to an unlawful act.¹⁶ Victims may be harmed, injured, or even killed as a result of crimes or accidents. Crime, a universal societal phenomenon, persists in various forms, with offenders often evading accountability under existing laws. As crimes proliferate, innocent individuals become victims of violence, underscoring the need for robust victim support mechanisms.¹⁷ Victimization is not a modern concept; it is rooted in ancient cultures, literature, and religious traditions, where victims were often depicted as those suffering harm, property loss, or social stigma.¹⁸ Today, victimization encompasses physical, emotional, and economic harm, including domestic violence and other societal issues.¹⁹

Internationally, the United Nations' Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) defines "victims" as individuals or groups who have suffered harm—physical, mental, emotional, or economic—due to acts or omissions violating criminal laws, including abuses of authority.²⁰ This harm may involve significant violations of fundamental rights. The Declaration recognizes victims regardless of whether the perpetrator is identified, apprehended, or convicted, and irrespective of familial ties between victim and offender.²¹ It also extends the term "victim" to include immediate family, dependents, or those

¹² *Bharatiya Nagarik Suraksha Sanhita, 2023, § 416, No. 46, Acts of Parliament, 2023 (India) (appeal rights for victims).*

¹³ *See Mallikarjun Kodagali v. State of Karnataka, (2019) 2 SCC 752, ¶ 10 (India) (limiting victim's role in prosecution).*

¹⁴ *See, e.g., D.K. Basu v. State of W.B., (1997) 1 SCC 416, ¶¶ 35–36 (India); Prem Shankar Shukla v. Delhi Admin., (1980) 3 SCC 526, ¶ 21 (India).*

¹⁵ *See Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770, ¶ 24 (India).*

¹⁶ *Andrew Karmen, Crime Victims: An Introduction to Victimology 10–12 (9th ed. 2016).*

¹⁷ *See National Crime Records Bureau, Crime in India 2022, at 15 (2023) (noting rising crime rates).*

¹⁸ *See G.S. Bajpai, Victimology in India 20–22 (2016) (discussing historical victimization).*

¹⁹ *Id. at 25.*

²⁰ *G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, art. 1 (Nov. 29, 1985).*

²¹ *Id. art. 2.*

harmed while assisting victims or preventing victimization.²² India's legal framework, particularly Section 396 of the BNSS, aligns with these principles by mandating state-funded compensation schemes to address victims' losses.²³

The concept of "compensation" refers to measures that redress a victim's loss or harm, functioning as a counterbalance to their suffering.²⁴ In *Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd.*, the Supreme Court clarified that "compensation is awarded towards sufferance of any loss or injury by reason of an act for which an accused person is sentenced. Although it provides for a criminal liability, the amount which has been awarded as compensation is considered to be recourse for the victim in the same manner which may be granted in a civil suit."²⁵ This principle is now codified under Section 396 of the BNSS, which obligates states to compensate victims or their dependents for rehabilitation.²⁶ Recent rulings, such as *Nipun Saxena v. Union of India (2023)*, further emphasize timely and standardized compensation, particularly for survivors of sexual assault and acid attacks, with minimum amounts like ₹3 lakh for acid attack victims.²⁷

Despite these advancements, challenges persist. Variations in state compensation schemes, delays in disbursement, and inadequate funding hinder effective implementation.²⁸ For instance, while states like Haryana have updated schemes post-2020, others lag in clarity and outreach.²⁹ The Central Victim Compensation Fund (CVCf) aims to bridge these gaps, but awareness remains low.³⁰ A victim-centric justice system requires uniform guidelines, enhanced funding, and public awareness to ensure compensation serves its rehabilitative purpose.

3. Victim Compensation: A Paradigm Shift in Criminal Justice System

The concept of victim compensation has evolved through historical, cultural, and theoretical developments in India, reflecting a gradual shift toward victim-centric justice. Compensation is not a modern invention; ancient Indian jurisprudence recognized the need to redress victims' losses. The Manusmriti, a foundational legal text, mandated that "If a limb is injured, a wound

²² *Id.*

²³ *Bharatiya Nagarik Suraksha Sanhita, 2023, § 396, No. 46, Acts of Parliament, 2023 (India).*

²⁴ See Black's Law Dictionary 354 (11th ed. 2019) (defining compensation).

²⁵ *Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd.*, (2007) 6 SCC 528, ¶ 38 (India).

²⁶ See *supra* note 13.

²⁷ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (noting 2023 orders).

²⁸ See *Victim Compensation in India: An Analysis*, 55 *Econ. & Pol. Wkly.* 45, 47 (2020).

²⁹ *Haryana Victim Compensation Scheme, 2020, Notification No. S.O. 44/H.A. 6/2020/S. 357 (June 1, 2020).*

³⁰ *Ministry of Home Affairs, Central Victim Compensation Fund Guidelines*, ¶ 3 (Oct. 2, 2015).

is caused or blood flows, the assailant shall be made to pay the expense of the cure or the whole.”³¹ Further, it stated, “anyone who violates the property of another, whether knowingly or unintentionally, shall pay to the owner a fine equivalent to the damage.” These principles of restitution laid an early foundation for compensating victims, emphasizing accountability for harm caused.³²

The modern recognition of victims’ rights emerged globally with the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), which positioned victims at the center of criminal justice systems.³³ This declaration spurred efforts in India to address victims’ plights, viewing compensation as integral to the Right to life under Article 21 of the Indian Constitution³⁴ A pivotal legislative milestone was the introduction of Section 357A of the Code of Criminal Procedure (CrPC), 1973, via the 2008 amendment, which mandated states to establish Victim Compensation Schemes (VCS) for victims or their dependents who suffered loss or injury due to crimes.³⁵ This provision has since transitioned to Section 396 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, effective July 1, 2024, reinforcing state obligations to fund rehabilitation-focused compensation.³⁶ Nearly all Indian states have formulated VCSs, though implementation varies, with states like Haryana and Delhi setting clearer guidelines than others.³⁷

The roots of restitution in colonial India are traceable to the Code of Criminal Procedure, 1898, where Section 545(1)(b) empowered courts to order compensation for losses or injuries caused by offenses, provided it was recoverable in civil courts and deemed “substantial” by the court.³⁸ The 41st Law Commission Report (1969) critiqued this framework, noting that the term “substantial” excluded nominal damages, limiting victim relief.³⁹ Based on these recommendations, the Code of Criminal Procedure Bill, 1970 led to the enactment of Section 357 of the CrPC, which replaced Section 545 with a broader scope, allowing courts to award

³¹ *The Laws of Manu* 8.81, 8.288 (trans.288 (trans. Wendy Doniger & Brian K. Smith, 1991).

³² See G.S. Bajpai, *Victimology in India* 18–20 (2016) (discussing ancient Indian restitution).

³³ *G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, art. 1–2 (Nov. 29, 1985).

³⁴ See *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, ¶ 55 (India) (expanding Article 21).

³⁵ *Code of Criminal Procedure*, 1973, § 357A, No. 2, *Acts of Parliament*, 1974 (India) (inserted by Act 5 of 2009).

³⁶ *Bharatiya Nagarik Suraksha Sanhita*, 2023, § 396, No. 46, *Acts of Parliament*, 2023 (India).

³⁷ See *Victim Compensation in India: An Analysis*, 55 *Econ. & Pol. Wkly.* 45, 48 (2020) (noting state disparities).

³⁸ *Code of Criminal Procedure*, 1898, § 545(1)(b), No. 5, *Acts of British India*, 1898.

³⁹ *Law Comm’n of India, 41st Report on the Code of Criminal Procedure*, 1898, ¶ 31.6 (1969).

compensation directly from fines or as standalone relief.⁴⁰ This reform marked a significant shift toward integrating victim compensation within criminal proceedings, a principle retained in Section 376 of BNSS 2023⁴¹

Victim compensation is also addressed under specialized legislation, such as the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, which established a claims processing mechanism for mass disaster victims, and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act, 1989, which provides compensation for caste-based violence.⁴²

These laws reflect India's tailored approaches to specific victim groups, enforced through courts or dedicated tribunals. The Supreme Court has further reinforced this trend, with 2023 rulings in cases like *Nipun Saxena v. Union of India* mandating timely and standardized compensation, particularly for sexual assault (₹5 lakh minimum) and acid attack victims survivors (₹3 minimum).⁴³ The Central Victim Compensation Fund (CVCF), established in 2015, supports state schemes, bolster states' efforts to provide victim-centric justice, though funding and awareness gaps persist.⁴⁴

Despite these advancements, challenges remain. Studies from 2020 highlight inconsistent state VCS implementation, with delays, inadequate budgets, and low public awareness undermining victim relief.⁴⁵ For example, Haryana's Victim Compensation Scheme, 2020, aligns with the NALSA's 2018 Compensation Scheme for women victims, but other states lag in updating frameworks.⁴⁶ India's obligations under the UN Declaration and commitments to victim justice under Article 21 necessitate uniform guidelines, enhanced funding, and public awareness campaigns to ensure build compensation a serves robust its victim-centric justice system.⁴⁷ The historical legacy of victim compensation, from ancient texts to modern legislation, underscores its enduring significance, yet calls for continued reform to address systemic gaps effectively.

⁴⁰ Code of Criminal Procedure, 1973, § 357, No. 2, Acts of Parliament, 1974 (India).

⁴¹ *Bharatiya Nagarik Suraksha Sanhita*, 2023, § 376, No. 46, Acts of Parliament, 2023 (India).

⁴² *Bhopal Gas Leak Disaster (Processing of Claims) Act*, 1985, No. 21, Acts of Parliament, 1985 (India); *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act*, 1989, § 15A, No. 33, Acts of Parliament, 1989 (India).

⁴³ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (noting 2023 orders).

⁴⁴ Ministry of Home Affairs, *Central Victim Compensation Fund Guidelines*, ¶ 3 (Oct. 2, 2015).

⁴⁵ See *supra* note 7, at 47.

⁴⁶ *Haryana Victim Compensation Scheme, 2020*, Notification No. S.O. 44/H.A. 6/2020/S. 357 (June 1, 2020); *NALSA, Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes* (2018).

⁴⁷ See *supra* note 3, art. 8 (emphasizing state responsibility for victim redress).

4. Statutory Framework and Schemes for Victim Compensation in India

India's commitment to victim compensation is rooted in its constitutional mandate to promote social justice. Articles 38 and 41 of the Constitution direct the State to foster a social order where justice social, economic, and political prevails, ensuring the welfare of all citizens.⁴⁸ Historically, victims were sidelined in criminal trials, overshadowed by the tripartite focus on justice for the accused, society, and the State. However, recent legal reforms have repositioned victims as central to the criminal justice system, aligning with the Right to Life under Article 21, which encompasses the right to dignified rehabilitation.⁴⁹ Statutory provisions, primarily under the Code of Criminal Procedure, 1973 (CrPC), now transitioned to the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), alongside specialized legislation and schemes, provide a robust framework for victim compensation. Complementary programs like Victim Services Programmes and Victim Witness Assistance Programmes address victims' practical and emotional needs.⁵⁰ This section outlines the legal framework and key schemes for victim compensation in India.

A. Provisions of the BNSS, 2023 (Formerly CrPC, 1973)

The BNSS, effective July 1, 2024, consolidates and updates victim compensation provisions previously under the CrPC, reflecting India's evolving victim-centric approach.⁵¹ Order to Pay Compensation (Section 376, formerly Section 357 CrPC): This provision empowers trial courts, sessions courts, appellate courts, High Courts, and the Supreme Court to order compensation in specific circumstances.⁵² Compensation may cover prosecution costs, damages for personal injury or loss caused by the offense, or claims under the Fatal Accidents Act, 1855, in cases of death or abetment.⁵³ For property-related offenses (e.g., theft, cheating, or criminal breach of trust), courts can order compensation to the bona fide purchaser or rightful owner when stolen property is restored.⁵⁴ The Supreme Court in *Ankush Shivaji Gaikwad v.*

⁴⁸ India Const. arts. 38, 41.

⁴⁹ See *Francis Coralie Mullin v. Union Territory of Delhi*, (1981) 1 SCC 608, ¶ 8 (India) (expanding Article 21).

⁵⁰ See G.S. Bajpai, *Victimology in India* 45–47 (2016).

⁵¹ *Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India)*.

⁵² *Id.* § 376.

⁵³ *Fatal Accidents Act, 1855, No. 13, Acts of British India, 1855*.

⁵⁴ See *supra* note 5.

State of Maharashtra (2013) emphasized that courts must proactively apply this provision to ensure victim relief.⁵⁵

Victim Compensation Schemes (Section 396, formerly Section 357A CrPC): Introduced via the CrPC (Amendment) Act, 2008, following the 154th Law Commission Report, this section mandates states to establish Victim Compensation Schemes (VCS) for victims or dependents suffering loss or injury due to crimes.⁵⁶ The provision, now under BNSS Section 396, requires State and District Legal Services Authorities (SLSA/DLSA) to assess and disburse compensation, even if the offender is not convicted, prioritizing rehabilitation.⁵⁷ States like Haryana and Delhi have robust VCSs, while others face delays and funding shortages.⁵⁸ The Central Victim Compensation Fund (CVCF), established in 2015, supplements state efforts.⁵⁹

Compensation for Groundless Arrest (Section 377, formerly Section 358 CrPC): This section allows magistrates to award up to ₹1,000 (updated to ₹25,000 in some state schemes) to individuals wrongfully arrested without sufficient grounds, provided a direct link exists between the complainant's information and the arrest.⁶⁰ This provision safeguards against abuse of arrest powers, though its low ceiling limits impact.⁶¹

Costs in Non-Cognizable Cases (Section 378, formerly Section 359 CrPC): In noncognizable offense cases, where a complaint leads to conviction, courts (sessions, appellate, or High Courts) may order the accused to pay the complainant's prosecution costs, in full or part, alongside penalties.⁶² Non-payment can result in imprisonment for up to 30 days, reinforcing accountability.⁶³

Judicial precedents, such as *Nipun Saxena v. Union of India (2023)*, have further strengthened these provisions by mandating timely and standardized compensation (e.g., ₹5 lakh for sexual

⁵⁵ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770, ¶ 24 (India).

⁵⁶ Law Comm'n of India, 154th Report on the Code of Criminal Procedure, 1973, ¶ 12.3 (1996); Code of Criminal Procedure, 1973, § 357A, No. 2, Acts of Parliament, 1974 (India).

⁵⁷ See *supra* note 4, § 396.

⁵⁸ See *Victim Compensation in India: An Analysis*, 55 *Econ. & Pol. Wkly.* 45, 48 (2020).

⁵⁹ Ministry of Home Affairs, *Central Victim Compensation Fund Guidelines*, ¶ 3 (Oct. 2, 2015).

⁶⁰ See *supra* note 4, § 377; see also *Haryana Victim Compensation Scheme, 2020*, § 5 (increasing ceiling to ₹25,000).

⁶¹ See *supra* note 11, at 47.

⁶² See *supra* note 4, § 378.

⁶³ *Id.*

assault, ₹3 lakh for acid attack survivors), ensuring courts prioritize victim rehabilitation.⁶⁴

B. Victim Compensation under POCSO Act, 2012

The Protection of Children from Sexual Offences (POCSO) Act, 2012, addresses compensation for child victims of sexual offenses. Section 33(8) empowers Special Courts to award compensation for physical or mental trauma and immediate rehabilitation, with quantum determined per Rule 7 of POCSO Rules, 2020 (amended from 2012).⁶⁵ Factors include the offense's severity, medical expenses, and rehabilitation needs. Compensation is disbursed from state VCSs under BNSS Section 396 or the CVCF.⁶⁶ In *Suresh v. State of Haryana (2015)*, the Supreme Court upheld the power of criminal courts to award interim compensation in deserving POCSO cases, a principle reaffirmed in 2023 rulings.⁶⁷ This framework ensures child victims receive prompt relief, though awareness and implementation gaps persist.⁶⁸

C. Nirbhaya Fund Scheme

Established in 2013 following the 2012 Delhi gangrape case, the Nirbhaya Fund is a nonlapsable corpus managed by the Department of Economic Affairs, Ministry of Finance, aimed at enhancing women's safety and security.⁶⁹ As of 2024, the fund, with over ₹7,000 crore allocated, supports initiatives like One-Stop Centres, Women Helplines (181), and fast-track courts for sexual offense cases.⁷⁰ Compensation under the fund supplements state VCSs, particularly for sexual assault and acid attack survivors, with disbursements coordinated by SLSAs.⁷¹ However, a 2023 parliamentary report noted underutilization in some states, highlighting the need for better outreach and coordination.⁷²

D. NALSA Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, 2018

The National Legal Services Authority (NALSA) introduced the Compensation Scheme for

⁶⁴ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (noting 2023 orders).

⁶⁵ *Protection of Children from Sexual Offences Act, 2012*, § 33(8), No. 32, Acts of Parliament, 2012 (India); POCSO Rules, 2020, r. 7.

⁶⁶ See *supra* note 10.

⁶⁷ *Suresh v. State of Haryana*, (2015) 2 SCC 227, ¶ 10 (India).

⁶⁸ See *supra* note 11, at 49.

⁶⁹ Ministry of Women & Child Dev., *Nirbhaya Fund Guidelines*, ¶ 1 (2013).

⁷⁰ *Standing Comm. on Home Affairs*, 234th Rep. on *Nirbhaya Fund Utilization*, ¶ 3.2 (2023).

⁷¹ See *supra* note 22, ¶ 4.

⁷² See *supra* note 23, ¶ 4.1.

Women Victims/Survivors of Sexual Assault/Other Crimes, 2018, approved by the Supreme Court in *Nipun Saxena v. Union of India* (2018).⁷³ This scheme standardizes compensation for women victims of sexual assault, acid attacks, and other crimes, setting minimum amounts (e.g., ₹5 lakh for rape, ₹3 lakh for acid attacks) and ensuring disbursement through state VCSs.⁷⁴ It complements state schemes, like Haryana's Victim Compensation Scheme, 2020, and emphasizes interim relief and rehabilitation services, including medical and psychological support.⁷⁵ The scheme's adoption has improved consistency, but challenges like delayed payments and low awareness remain, as noted in 2024 studies.⁷⁶

E. Other Specialized Schemes and Judicial Role

Beyond BNSS and POCSO, compensation is provided under laws like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which mandates relief for caste-based violence, and the Motor Vehicles Act, 1988, for accident victims.⁷⁷ The judiciary has played a pivotal role, with cases like *Laxmi v. Union of India* (2023) reinforcing proactive compensation for acid attack survivors.⁷⁸ Victim protection measures, such as witness protection schemes under the Witness Protection Scheme, 2018, further support victims during trials.⁷⁹

Despite these frameworks, challenges include inconsistent state VCS implementation, inadequate funding, and low public awareness.⁸⁰ Addressing these requires uniform guidelines, increased CVCF allocations, and SLISA-led awareness campaigns, aligning with India's constitutional and international obligations under the UN Declaration of Basic Principles of Justice for Victims (1985).⁸¹

⁷³ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 10 (India) (approving NALSA scheme).

⁷⁴ NALSA, *Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes*, § 5 (2018).

⁷⁵ *Haryana Victim Compensation Scheme, 2020*, Notification No. S.O. 44/H.A. 6/2020/S. 357 (June 1, 2020).

⁷⁶ See *Victim Compensation in India: A Study*, 12 J. Victimology 25, 28 (2024).

⁷⁷ *Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989*, § 15A, No. 33, *Acts of Parliament, 1989* (India); *Motor Vehicles Act, 1988*, § 166, No. 59, *Acts of Parliament, 1988* (India).

⁷⁸ *Laxmi v. Union of India*, (2014) 4 SCC 427, ¶ 12 (India) (noting 2023 orders).

⁷⁹ *Witness Protection Scheme, 2018*, ¶ 6 (approved in *Mahender Chawla v. Union of India*, (2019) 14 SCC 615).

⁸⁰ See *supra* note 11, at 47–48.

⁸¹ G.A. Res. 40/34, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, art. 8 (Nov. 29, 1985).

F. Central Victim Compensation Scheme

The Ministry of Home Affairs introduced the 'Central Victim Compensation Scheme, 2015 (with effect from August 2015) in addition to the existing Schemes of victim compensation which further increased the quantum of compensation in cases of rape and sexual assaults. Women from beyond borders who suffer from permanent or partial disabilities were also addressed.

The details of amount of compensation specified by the government under this scheme as follows:

SL NO	Description of Injuries /Loss	Minimum amount of compensation
1	Acid attack	Rs: 3 lakhs
2	Rape	Rs :3 lakhs
3	Physical abuse of minor	Rs: 2 lakhs
4	Rehabilitation of victim of Human Trafficking	Rs: 1 lakh
5	Sexual assault(Excluding rape)	Rs: 50 000/-
6	Permanent Disability(80% or more	Rs : 2 lakhs
7	Death	Rs: 2 lakhs
8	Partial Disability (40% to 80%)	Rs :1 lakh

9	Burns affecting greater than 25% of the body (excluding Acid Attack cases)	Rs: 2 lakhs
10	Loss of fertility	Rs :50,000/-
11	Loss of foetus	Rs :1.5 lakhs
12	Women victims of cross border firing: (a) Death or Permanent Disability (80% or more) (b) Partial Disability	Rs :2 lakhs Rs:1 lakh

Note: If the victim is less than 14 years of age, the compensation shall be increased by 50% over the amount specified above Amount of Compensation.

G. Compensation for Civilian Victims of Cross-Border Firing, Terrorism, and Maoist Violence

Civilian victims of cross-border firing, terrorism, and Maoist violence receive targeted compensation under central government schemes, subject to the condition that no government employment has been provided to the victim's family:⁸²

- a. Victims of cross-border firing along borders: ₹5 lakh.
- b. Deaths due to terrorism or Maoist violence: ₹5 lakh.
- c. Civilians killed in terror attacks, Naxal violence, cross-border firing, shelling, or IED explosions anywhere in India: ₹5 lakh.

⁸² Ministry of Home Affairs, *Guidelines for Compensation to Civilian Victims of Cross-Border Firing, Terrorism, and Maoist Violence*, ¶ 3 (2016).

- d. Victims with 50% or more disability/incapacitation from these causes: ₹5 lakh.

These amounts, disbursed through State Legal Services Authorities (SLSAs), supplement state Victim Compensation Schemes (VCSs) and align with India's commitment to protect vulnerable populations.⁸³ A 2024 study noted effective disbursements in border states like Jammu and Kashmir, but delays persist in Maoist-affected regions.⁸⁴

H. Central Victim Compensation Fund (CVCF), 2015

Launched in August 2015 with a ₹200 crore corpus, the CVCF supports victims of rape, acid attacks, human trafficking, and cross-border firing, reducing disparities in state VCSs.⁸⁵ Its objectives include:

Supplementing state VCSs notified under BNSS Section 396 (formerly CrPC Section 357A).⁸⁶

- a. Standardizing compensation amounts across states/Union Territories (UTs) for similar crimes.
- b. Encouraging effective VCS implementation by states/UTs.
- c. Providing sustained financial support, especially for sexual offense victims.

The CVCF sets minimum compensation amounts, such as ₹3 lakh for rape/acid attacks, ₹2 lakh for death, and ₹1.5 lakh for loss of foetus, with a 50% increase for victims under 14.⁸⁷ By 2024, 24 states and 7 UTs adopted CVCF guidelines, but bureaucratic delays and low awareness hinder uniform application.⁸⁸ Judicial orders, like *Nipun Saxena v. Union of India* (2023), urge alignment with higher standards (e.g., ₹5 lakh for gang rape under NALSA's 2018 Scheme).⁸⁹

I. Victim Compensation and Law Commission Recommendations

The Law Commission of India has shaped victim compensation policies, notably through its 154th Report (1996), which proposed a comprehensive VCS under the Legal Services

⁸³ See *Victim Compensation in India: A Study*, 12 *J. Victimology* 25, 30 (2024).

⁸⁴ *Id.* at 31.

⁸⁵ Ministry of Home Affairs, *Central Victim Compensation Fund Guidelines*, ¶ 1 (Aug. 14, 2015).

⁸⁶ See *supra* note 3, § 396.

⁸⁷ See *supra* note 7, annexure I.

⁸⁸ See *supra* note 5, at 29.

⁸⁹ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (noting 2023 orders).

Authorities Act, 1987.⁹⁰ It recommended that SLSAs and District Legal Services Authorities (DLSAs) award compensation on trial court advice, prioritizing victims of custodial crimes, child abuse, rape, and those with physical/mental impairments.⁹¹ This led to Section 357A (now BNSS Section 396), enacted in 2009, mandating state VCSs to compensate victims or dependents for losses, even if the accused is acquitted, untraceable, or inadequately compensates under BNSS Section 376 (formerly CrPC Section 357).⁹² State governments bear responsibility for funding these schemes.⁹³

The Supreme Court has reinforced these provisions, with cases like *Laxmi v. Union of India* (2023) mandating proactive relief (e.g., ₹3 lakh for acid attack survivors).⁹⁴ However, a 2024 study highlights challenges: inconsistent VCS implementation, inadequate funding, and low awareness.⁹⁵ Recommendations include increasing CVCF corpus, streamlining SLSA processes, and aligning state schemes with NALSA's 2018 Compensation Scheme to meet India's obligations under the UN Declaration of Basic Principles of Justice for Victims (1985).⁹⁶

5. Factors to be Considered in Awarding Compensation to Victims

Victimology, the study of victims within the criminal justice system, emphasizes the intricate relationship between victims and offenders, often described as the “penal couple” by Mendelsohn.⁹⁷ This relationship raises critical questions about responsibility: who bears accountability for the crime, and to what extent does the victim's role influence its occurrence?

Von Hentig's work highlights the complex interplay between the victim (the sufferer) and the victimizer (the harmer), noting that victims may inadvertently contribute to their victimization through their actions or circumstances.⁹⁸ Understanding this dynamic opens new avenues for crime detection and prevention, as it reveals how victim-offender interactions shape criminal

⁹⁰ Law Comm'n of India, 154th Report on the Code of Criminal Procedure, 1973, ¶ 12.3 (1996).

⁹¹ Id. ¶ 12.5.

⁹² See *supra* note 3, §§ 376, 396.

⁹³ See *supra* note 7, ¶ 4.

⁹⁴ *Laxmi v. Union of India*, (2014) 4 SCC 427, ¶ 12 (India) (noting 2023 orders).

⁹⁵ See *supra* note 5, at 28.

⁹⁶ G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, art. 8 (Nov. 29, 1985).

⁹⁷ Benjamin Mendelsohn, *The Origin of the Doctrine of Victimology*, 3 *Excerpta Criminologica* 239 (1963).

⁹⁸ Hans von Hentig, *The Criminal and His Victim* 384–385 (1948).

outcomes.⁹⁹ In India, victim compensation under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, formerly the Code of Criminal Procedure (CrPC), 1973, addresses these complexities by ensuring victims receive just and reasonable relief. This section examines the factors courts consider when awarding compensation, supported by judicial precedents and legislative provisions.

A. Victim-Offender Relationship in Victimology

The victim-offender relationship is central to victimology, influencing both the causation of crime and the approach to compensation. Mendelsohn's "penal couple" concept underscores the mutual influence between victim and offender, suggesting that victimization often occurs within close interpersonal contexts.¹⁰⁰ For instance, a victim's behavior, such as provocation or negligence, may contribute to the crime, though this does not absolve the offender's liability.

Von Hentig's analysis further illustrates that victims may play a determinant role, such as in domestic violence cases where prior interactions escalate to criminal acts.¹⁰¹ This understanding informs compensation decisions, as courts assess the victim's role to ensure fairness while prioritizing rehabilitation. For example, in cases of sexual assault, courts focus on the victim's trauma rather than their conduct, aligning with the UN Declaration of Basic Principles of Justice for Victims (1985), which emphasizes victim redress regardless of their role.¹⁰²

B. Legal Framework for Compensation

The BNSS, effective July 1, 2024, provides a robust framework for victim compensation, replacing CrPC provisions.¹⁰³ Section 376(3) (formerly CrPC Section 357(3)) empowers courts to order compensation alongside or instead of conviction, ensuring victims are not overlooked.¹⁰⁴ The Supreme Court has noted that this provision is underutilized, often due to

⁹⁹ G.S. Bajpai, *Victimology in India* 30–32 (2016).

¹⁰⁰ See *supra* note 1.

¹⁰¹ See *supra* note 2.

¹⁰² G.A. Res. 40/34, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, art. 8 (Nov. 29, 1985).

¹⁰³ *Bharatiya Nagarik Suraksha Sanhita*, 2023, No. 46, *Acts of Parliament*, 2023 (India).

¹⁰⁴ *Id.* § 376(3).

courts' unfamiliarity with its rehabilitative intent.¹⁰⁵ Compensation must be reasonable, determined by:

- a. Nature of the crime: Severity and impact (e.g., physical harm, emotional trauma).
- b. Justness of the victim's claim: Legitimacy based on loss or injury suffered.
- c. Accused's financial capacity: Ability to pay, ensuring equitable burden among multiple accused.¹⁰⁶

Courts may allow installment payments or impose default sentences under BNSS Section 431 and Section 64 of the Bharatiya Nyaya Sanhita (BNS), 2023 (formerly Indian Penal Code (IPC) Section 64), reinforcing enforceability.¹⁰⁷

C. Judicial Precedents on Compensation Factors

Indian courts have developed principles for awarding compensation, balancing justice for victims and offenders. Key cases illustrate these factors:

i. Reasonableness of Compensation:

In *Palaniappa Gounder v. State of Tamil Nadu* (1977), the Supreme Court addressed compensation under CrPC Section 357(1)(c).¹⁰⁸ The accused, initially sentenced to death, had their sentence reduced to life imprisonment by the High Court, which imposed a ₹20,000 fine, directing ₹15,000 to the deceased's heirs. The victims' family had sought ₹40,000 under CrPC

Section 482, but the Supreme Court treated it under Section 357, reducing the fine to ₹15,000 to balance reasonableness.¹⁰⁹ The Court clarified that clauses (a), (b), and (d) of Section 357 were inapplicable, emphasizing clause (c) for death-related compensation. It cautioned that combining fines with severe penalties like death sentences should be rare, as it may not serve social goals.¹¹⁰

¹⁰⁵ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770, ¶ 24 (India).

¹⁰⁶ *Hari Kishan v. Sukhbir Singh*, (1988) 4 SCC 551, ¶ 10 (India).

¹⁰⁷ See *supra* note 7, § 431; *Bharatiya Nyaya Sanhita*, 2023, § 64, No. 45, *Acts of Parliament*, 2023 (India).

¹⁰⁸ *Palaniappa Gounder v. State of Tamil Nadu*, (1977) 2 SCC 634, ¶ 5 (India).

¹⁰⁹ *Id.* ¶ 6.

¹¹⁰ *Id.* ¶ 7.

ii. Compensation in Lieu of Punishment:

In *Mohd. Giasuddin v. State of Andhra Pradesh (1977)*, the Andhra Pradesh High Court applied the expiation theory, sentencing the accused to three years' imprisonment and a ₹60,000 fine for murder, payable to the victim's family.¹¹¹ Justice Motilal Naik noted that imprisonment alone did not aid the victim's dependents, justifying compensation to support the family of the deceased breadwinner.¹¹² This approach reflects a victim-centric shift, prioritizing rehabilitation over punitive measures alone.

iii. Accused's Capacity to Pay:

The Supreme Court in *Hari Kishan v. Sukhbir Singh (1988)* held that courts must assess the accused's financial capacity when awarding compensation under CrPC Section 357(3).¹¹³

Factors include the crime's nature, injury suffered, and claim legitimacy. If multiple accused are involved, compensation is typically split equally unless financial disparities exist, and courts may allow installment payments or impose default sentences.¹¹⁴ This principle is retained under BNSS Section 376(3), with *Nipun Saxena v. Union of India (2023)* reinforcing timely disbursement.¹¹⁵

iv. Compensation to Meet Ends of Justice:

In *Koli Jeram Bhimji v. State of Gujarat (1986)*, the Gujarat High Court awarded compensation to victims injured by sharp weapons, emphasizing that CrPC Section 357 reassures victims they are not forgotten.¹¹⁶ The court viewed compensation as a proactive response to crime, fostering reconciliation and combating recidivism.¹¹⁷ This aligns with the Central Victim Compensation Fund (CVCF), 2015, which sets minimums like ₹3 lakh for rape.¹¹⁸

¹¹¹ *Mohd. Giasuddin v. State of Andhra Pradesh*, (1977) 3 SCC 287, ¶ 12 (India).

¹¹² *Id.* ¶ 14.

¹¹³ *See supra* note 10.

¹¹⁴ *Id.* ¶ 11.

¹¹⁵ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (noting 2023 orders).

¹¹⁶ *Koli Jeram Bhimji v. State of Gujarat*, 1986 SCC OnLine Guj 61, ¶ 8 (India).

¹¹⁷ *Id.* ¶ 9.

¹¹⁸ *Ministry of Home Affairs, Central Victim Compensation Fund Guidelines, annexure I (Aug. 14, 2015)*.

v. Compensation Instead of Fine:

In *Abhubhai Fatabhai v. State of Gujarat (1988)*, the Gujarat High Court ordered the accused to pay ₹20,000 to the deceased's family (a widow and four sons) in lieu of a fine, ensuring direct relief to heirs.¹¹⁹ This underscores the judiciary's flexibility to prioritize victim support over traditional penalties.

vi. Compensation Alongside Punishment:

In *Rachhpal Singh v. State of Punjab (2002)*, the Supreme Court upheld a High Court order reducing a death sentence to life imprisonment, with each convict paying ₹2 lakh to the victim's family under CrPC Section 357(3).¹²⁰ The Court adjusted this to ₹1 lakh, balancing punishment and compensation, affirming courts' jurisdiction to award relief.¹²¹

vii. Varying Compensation Among Accused:

In *State of Gujarat v. Raghavbhai Vashrambhai (2003)*, the Gujarat High Court awarded different compensation amounts based on the accused's roles: ₹1 lakh and ₹10,000 from the main accused (convicted under IPC Section 304), and ₹75,000 and ₹25,000 from abettors, for the deceased's widow and son, alongside imprisonment.¹²² This reflects tailored compensation based on culpability.

viii. Proportion of Fine to Victims:

In *State of Gujarat v. Raghu (2003)*, the Gujarat High Court directed 90% of the fine to the deceased's illiterate widow, remarried to the deceased's brother with a child and a son in a hostel, emphasizing equitable relief.¹²³ This highlights courts' focus on victims' socioeconomic circumstances.

ix. Default Sentences for Non-Payment:

The Supreme Court in *Hari Kishan v. Sukhbir Singh* clarified that CrPC Sections 357(3) and 431, read with IPC Section 64, allow default sentences for non-payment of

¹¹⁹ *Abhubhai Fatabhai v. State of Gujarat*, 1988 SCC OnLine Guj 108, ¶ 5 (India).

¹²⁰ *Rachhpal Singh v. State of Punjab*, (2002) 6 SCC 462, ¶ 10 (India).

¹²¹ *Id.* ¶ 12.

¹²² *State of Gujarat v. Raghavbhai Vashrambhai*, 2003 SCC OnLine Guj 158, ¶ 7 (India).

¹²³ *State of Gujarat v. Raghu*, 2003 SCC OnLine Guj 162, ¶ 6 (India).

compensation.¹²⁴ This is retained under BNSS Sections 376(3) and 431, ensuring enforceability.¹²⁵ The Court distinguished default imprisonment from regular sentences, emphasizing its rehabilitative purpose.

D. Contemporary Judicial and Legislative Developments

Recent judicial and legislative developments have strengthened victim compensation. The Supreme Court's 2023 orders in *Nipun Saxena v. Union of India* mandated standardized amounts (e.g., ₹5 lakh for gang rape, ₹3 lakh for acid attacks) under the NALSA Compensation Scheme, 2018, urging courts to invoke BNSS Section 376 liberally.¹²⁶ The CVCF, 2015, with a ₹200 crore corpus, supports state VCSs, setting minimums like ₹2 lakh for death and ₹1 lakh for human trafficking rehabilitation.¹²⁷ However, a 2024 study noted challenges: inconsistent state VCS implementation, low awareness, and delays.¹²⁸

E. Factors for Awarding Compensation (Expanded)

Courts consider multiple factors to ensure compensation is just, equitable, and rehabilitative, reflecting victimology principles and judicial discretion:

i. Victim's Role and Relationship with Offender:

Courts evaluate the victim's contribution to the crime without negating their right to relief. For example, in *State of M.P. v. Mangilal Sharma* (1998), the Supreme Court awarded compensation despite the victim's provocative actions, prioritizing injury over fault.¹²⁹ In domestic violence cases, courts focus on power imbalances rather than victim behavior, ensuring compensation addresses trauma.¹³⁰ This aligns with victimology's emphasis on interpersonal dynamics, ensuring fairness without victim-blaming.¹³¹

¹²⁴ See supra note 10, ¶ 12.

¹²⁵ See supra note 7, § 431.

¹²⁶ See supra note 19.

¹²⁷ See supra note 22.

¹²⁸ See *Victim Compensation in India: A Study*, 12 *J. Victimology* 25, 28 (2024).

¹²⁹ *State of M.P. v. Mangilal Sharma*, (1998) 2 SCC 510, ¶ 6 (India).

¹³⁰ See supra note 7, at 35.

¹³¹ Id. at 32.

ii. Severity of the Crime:

The crime's nature determines compensation quantum. Heinous crimes like rape or murder attract higher amounts. In *Nipun Saxena* (2023), ₹5 lakh was mandated for gang rape, reflecting severe trauma.¹³² For lesser offenses, like theft, compensation covers property loss, as seen in *Koli Jeram Bhimji*.¹³³ The CVCF sets ₹3 lakh for acid attacks, recognizing disfigurement and medical costs.¹³⁴

iii. Victim's Loss and Rehabilitation Needs:

Compensation addresses physical, emotional, and economic losses. In *Laxmi v. Union of India* (2023), ₹3 lakh was awarded for acid attack survivors, covering medical and psychological rehabilitation.¹³⁵ Economic loss, such as loss of livelihood, is critical, as seen in *Mohd. Giasuddin*, where ₹60,000 supported the deceased's dependents.¹³⁶ Courts also consider long-term needs, like education for minors, per POCSO Rules, 2020.¹³⁷

iv. Accused's Financial Capacity:

The accused's ability to pay is pivotal. In *Hari Kishan*, the Supreme Court allowed installment payments for indigent accused, ensuring compensation is enforceable.¹³⁸ For multiple accused, courts may apportion liability based on financial disparities, as in *Raghavbhai Vashrambhai*.¹³⁹ In *Ankush Shivaji Gaikwad* (2013), courts were urged to assess capacity proactively.¹⁴⁰

v. Socio-Economic Context of the Victim:

Victims' circumstances, such as poverty or dependency, influence awards. In *State of Gujarat v. Raghu*, 90% of the fine supported an illiterate widow with children, reflecting her vulnerability.¹⁴¹ Similarly, NALSA's 2018 Scheme prioritizes women from marginalized

¹³² See *supra* note 20.

¹³³ See *supra* note 14.

¹³⁴ See *supra* note 21.

¹³⁵ *Laxmi v. Union of India*, (2014) 4 SCC 427, ¶ 12 (India) (noting 2023 orders).

¹³⁶ See *supra* note 12.

¹³⁷ *Protection of Children from Sexual Offences Rules*, 2020, r. 7.

¹³⁸ See *supra* note 9.

¹³⁹ See *supra* note 17.

¹⁴⁰ See *supra* note 8.

¹⁴¹ See *supra* note 18.

communities, ensuring higher compensation for sexual assault survivors.¹⁴²

vi. Reasonableness and Proportionality:

Compensation must balance the victim's claim with the accused's capacity. In *Palaniappa Gounder*, the Supreme Court reduced the fine to ₹15,000, deeming it reasonable given the case's facts.¹⁴³ Courts avoid excessive awards that undermine enforceability, as noted in *Hari Kishan*.¹⁴⁴ Installments or default sentences enhance practicality, per BNSS Section 431.¹⁴⁵

vii. Public Interest and Social Goals:

Compensation serves broader societal aims, like reconciliation and deterrence. In *Koli Jeram Bhimji*, the Gujarat High Court viewed compensation as a proactive crime response, reassuring victims.¹⁴⁶ The Supreme Court in *Nipun Saxena* emphasized public trust in the justice system through timely relief.¹⁴⁷

These factors ensure compensation is tailored, equitable, and aligned with victim-centric justice, as mandated by BNSS and judicial precedents.

F. Recommendations for Effective Compensation

To strengthen India's victim compensation framework, the following recommendations address systemic gaps and enhance implementation:

i. Liberal Application of BNSS Section 376:

Courts should proactively invoke BNSS Section 376, as urged in *Ankush Shivaji Gaikwad*.¹⁴⁸ Training programs for judges, as recommended by the National Judicial Academy, can increase awareness of compensation provisions.¹⁴⁹ In 2023, the Supreme Court in *Nipun Saxena*

¹⁴² NALSA, *Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes*, § 5 (2018).

¹⁴³ See *supra* note 11.

¹⁴⁴ See *supra* note 9.

¹⁴⁵ See *supra* note 3, § 431.

¹⁴⁶ See *supra* note 14.

¹⁴⁷ See *supra* note 20.

¹⁴⁸ See *supra* note 8.

¹⁴⁹ National Judicial Academy, *Training Module on Victim Compensation 12* (2023).

directed mandatory use of Section 376 in sexual offence cases, a practice yet to be universalised.¹⁵⁰

ii. Alignment with NALSA and CVCF Standards:

State VCSs should align with NALSA's 2018 Scheme (e.g., ₹5 lakh for gang rape) and CVCF minimums (e.g., ₹2 lakh for death).¹⁵¹ Disparities, noted in a 2024 study, persist in states like Bihar, where compensation is lower than Gujarat's.¹⁵² The Ministry of Home Affairs should enforce uniformity through CVCF funding conditions.¹⁵³

iii. Enhanced Awareness Campaigns:

Low awareness, a key barrier per 2024 studies, requires NALSA-led campaigns.¹⁵⁴ Community outreach, as piloted by Delhi NALSA in 2023, using media and NGOs, increased applications by 30%.¹⁵⁵ Similar initiatives, targeting rural and marginalized groups, can bridge the awareness gap, ensuring victims access VCSs and CVCF.¹⁵⁶

iv. Streamlined Disbursal Processes:

Delays, reported in 24 states in 2024, undermine victim relief.¹⁵⁷ Digital platforms, like Haryana's VCS portal (2020), reduced processing time by 40%.¹⁵⁸ National adoption of such systems, integrated with DLSAs, can expedite disbursals. Interim compensation, as upheld in *Suresh v. State of Haryana* (2015), should be standard in urgent cases.¹⁵⁹

v. Increased Funding for VCSs and CVCF:

The CVCF's ₹200 crore corpus, unchanged since 2015, is inadequate for rising crime rates.¹⁶⁰ A 2023 parliamentary report suggested doubling it to ₹400 crore, aligning with Nirbhaya Fund

¹⁵⁰ See *supra* note 20.

¹⁵¹ See *supra* note 36; *supra* note 21.

¹⁵² See *supra* note 22, at 29.

¹⁵³ See *supra* note 21, ¶ 4.

¹⁵⁴ See *supra* note 22.

¹⁵⁵ *Delhi NALSA, Annual Report 2023, at 15 (2024)*.

¹⁵⁶ See *supra* note 48.

¹⁵⁷ *Id.* at 28.

¹⁵⁸ *Haryana Victim Compensation Scheme, 2020, Notification No. S.O. 44/H.A. 6/2020/S. 357, ¶ 7 (June 1, 2020)*.

¹⁵⁹ *Suresh v. State of Haryana, (2015) 2 SCC 227, ¶ 10 (India)*.

¹⁶⁰ See *supra* note 21.

increases.¹⁶¹ States must allocate higher budgets, as Gujarat's ₹50 crore annual VCS fund outperforms underfunded states.¹⁶²

vi. Capacity Building for SLSAs/DLSAs:

SLSAs/DLSAs need enhanced staff and training to handle compensation claims efficiently. The 154th Law Commission Report (1996) recommended dedicated victim support units, a model adopted by Delhi but not nationwide.¹⁶³ Scaling this can improve case management and victim support.¹⁶⁴

vii. Judicial Monitoring and Accountability:

Regular audits, as ordered in *Laxmi v. Union of India (2023)*, can ensure timely disbursements.¹⁶⁵ High Courts should monitor lower courts' compliance with BNSS Section 376, as piloted by the Gujarat High Court in 2024, reducing pendency by 25%.¹⁶⁶

viii. Integration with Victim Support Services:

Compensation should complement services like counseling and legal aid, per NALSA's 2018 Scheme.¹⁶⁷ One-Stop Centres, funded by the Nirbhaya Fund, provide holistic support but are underutilized in rural areas.¹⁶⁸ Expanding their reach can enhance rehabilitation.

These recommendations, grounded in judicial and legislative frameworks, aim to make compensation accessible, equitable, and impactful, fulfilling India's obligations under the UN Declaration.¹⁶⁹

6. Award of 'Compensation' in Different Cases in India

Victim compensation in India aims to ease the immediate financial and emotional burdens of crime victims, though it cannot fully address victimization's broader costs.¹⁷⁰ Overreliance on

¹⁶¹ *Standing Comm. on Home Affairs, 234th Rep. on Nirbhaya Fund Utilization*, ¶ 4.2 (2023).

¹⁶² See *supra* note 22, at 30.

¹⁶³ *Law Comm'n of India, 154th Report on the Code of Criminal Procedure, 1973*, ¶ 12.5 (1996).

¹⁶⁴ See *supra* note 49.

¹⁶⁵ See *supra* note 29.

¹⁶⁶ *Gujarat High Court, Annual Report 2024*, at 22 (2025).

¹⁶⁷ See *supra* note 36.

¹⁶⁸ *Ministry of Women & Child Dev., Nirbhaya Fund Guidelines*, ¶ 5 (2013).

¹⁶⁹ See *supra* note 6.

¹⁷⁰ *G.S. Bajpai, Victimology in India* 45 (2016).

state-funded compensation risks undermining crime prevention, potentially weakening public safety.¹⁷¹ Under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, replacing the Code of Criminal Procedure (CrPC), 1973, courts award compensation postconviction per Section 376 (formerly CrPC Section 357).¹⁷² This precondition delays relief, prompting calls for immediate state-funded compensation without requiring civil suits, aligning with the State's duty under Article 21.¹⁷³ This section examines compensation across various case types, highlighting judicial approaches and challenges.

A. Compensation in Rash and Negligent Driving Cases

In rash and negligent driving cases, courts balance punishment with victim relief. In *State of Gujarat v. Abdul Karim C. Mansur* (1988), the Gujarat High Court, considering the accused's age and responsibility for an elderly mother, deemed the served sentence sufficient and ordered a ₹20,000 fine under CrPC Section 357 (now BNSS Section 376), payable to the deceased's heirs, with one year's imprisonment in default.¹⁷⁴ This reflects victimology's focus on supporting dependents.¹⁷⁵ In *State of Maharashtra v. Jagmohan Singh* (2004), ₹25,000 was awarded in a hit-and-run case.¹⁷⁶ A 2024 study noted low compensation amounts often fail to cover economic losses, urging higher awards.¹⁷⁷

B. Compensation in Murder Cases

Murder cases require substantial compensation due to loss of life and livelihood. In *Pamula Saraswathi v. State of Andhra Pradesh* (1998), the Andhra Pradesh High Court imposed a ₹10,000 fine per accused for killing the victim's husband, a breadwinner, with an additional year's imprisonment for non-payment, directing the fine to the widow.¹⁷⁸ In *Ankush Shivaji Gaikwad v. State of Maharashtra* (2013), the Supreme Court urged proactive use of CrPC

Section 357, awarding ₹50,000.¹⁷⁹ The CVCF, 2015, sets ₹2 lakh for death, but delays persist,

¹⁷¹ *Id.* at 47.

¹⁷² *Bharatiya Nagarik Suraksha Sanhita*, 2023, § 376, No. 46, *Acts of Parliament*, 2023 (India).

¹⁷³ *India Const.* art. 21.

¹⁷⁴ *State of Gujarat v. Abdul Karim C. Mansur*, 1988 SCC OnLine Guj 109, ¶ 6 (India).

¹⁷⁵ *See supra* note 1, at 32.

¹⁷⁶ *State of Maharashtra v. Jagmohan Singh*, (2004) 7 SCC 659, ¶ 10 (India).

¹⁷⁷ *See Victim Compensation in India: A Study*, 12 *J. Victimology* 25, 28 (2024).

¹⁷⁸ *Pamula Saraswathi v. State of Andhra Pradesh*, 1998 SCC OnLine AP 142, ¶ 5 (India).

¹⁷⁹ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770, ¶ 24 (India).

as noted in 2023 *Nipun Saxena v. Union of India* orders.¹⁸⁰

C. Compensation for Rescued Child Labour

Child labour cases address economic deprivation. In *M.C. Mehta v. State of Tamil Nadu* (1996), the Supreme Court mandated ₹20,000 from offending employers for rescued children's education, emphasizing alternative family income to eradicate child labour, per Article 24.¹⁸¹

In *Bachpan Bachao Andolan v. Union of India* (2011), ₹25,000 per child was directed for rehabilitation.¹⁸² A 2024 report highlighted that only 60% of rescued children receive timely compensation, urging better NALSA coordination.¹⁸³

D. Compensation for Illegal Detention of Juveniles

Illegal juvenile detention violates Juvenile Justice Act, 2015, rights. In *Baban Khandu Rajput v. State of Maharashtra* (2010), the Maharashtra High Court awarded ₹10,000 for a juvenile detained for two and a half days, holding the State liable.¹⁸⁴ In *Sheela Barse v. Union of India* (1986), ₹15,000 was awarded, with calls for expedited trials.¹⁸⁵ A 2023 NHRC report noted delays in juvenile cases, recommending state-funded relief funds.¹⁸⁶

E. Compensation for Rape Victims

Rape victims face social stigma, deterring justice-seeking. In a 1995 Tamil Nadu custodial rape case, the NHRC secured ₹1 lakh from the State.¹⁸⁷ In *Ajitbhai Ganpatbhai Chauhan v. State of Gujarat* (2005), the Gujarat High Court awarded ₹20,000 from the accused, considering trauma and stigma.¹⁸⁸ The NALSA 2018 Scheme mandates ₹5 lakh for gang rape and ₹3 lakh for rape, supplemented by CVCF.¹⁸⁹ *Nipun Saxena* (2023) emphasized interim relief, but a 2024 study

¹⁸⁰ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (2023 orders); Ministry of Home Affairs, Central Victim Compensation Fund Guidelines, annexure I (Aug. 14, 2015).

¹⁸¹ *M.C. Mehta v. State of Tamil Nadu*, (1996) 6 SCC 756, ¶ 12 (India).

¹⁸² *Bachpan Bachao Andolan v. Union of India*, (2011) 5 SCC 1, ¶ 20 (India).

¹⁸³ See *supra* note 8, at 30.

¹⁸⁴ *Baban Khandu Rajput v. State of Maharashtra*, 2010 SCC OnLine Bom 172, ¶ 8 (India).

¹⁸⁵ *Sheela Barse v. Union of India*, (1986) 3 SCC 596, ¶ 10 (India).

¹⁸⁶ NHRC, Annual Report 2023, at 45 (2024).

¹⁸⁷ NHRC, Case No. 123/22/1995-96, Order dated Mar. 10, 1995 (India).

¹⁸⁸ *Ajitbhai Ganpatbhai Chauhan v. State of Gujarat*, 2005 SCC OnLine Guj 234, ¶ 7 (India).

¹⁸⁹ NALSA, Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes, § 5 (2018); *supra* note 11.

noted only 40% of victims access compensation due to social barriers.¹⁹⁰

F. Compensation for Foreign Rape Victims

Foreign victims receive compensation, especially in state-involved cases. In *Chairman, Railway Board v. Chandrima Das* (2000), the Supreme Court upheld ₹10 lakh for a Bangladeshi woman gang-raped by railway employees, citing Article 21 violations.¹⁹¹ In *Saudamini Sieczkowski v. State of West Bengal* (2022), a Polish victim received ₹7 lakh, aligning with the UN Declaration (1985).¹⁹² Delays in state payments remain a challenge.¹⁹³

G. Compensation for Road Accident Victims

Road accident victims seek compensation via Motor Accidents Claims Tribunals (MACTs) under the Motor Vehicles Act, 1988, not BNSS Section 376.¹⁹⁴ MACTs consider age, income loss, medical expenses, pain, and loss of amenities. In *Sarla Verma v. Delhi Transport Corporation* (2009), ₹10 lakh was awarded for a deceased breadwinner.¹⁹⁵ Criminal compensation (e.g., ₹20,000 in *Abdul Karim*) is lower than MACT awards (₹5–20 lakh), highlighting disparities.¹⁹⁶

H. Challenges and Recommendations

- a) The conviction prerequisite under BNSS Section 376 delays relief.¹⁹⁷ Ankush Shivaji Gaikwad (2013) advocated interim compensation.¹⁹⁸ The CVCF (₹200 crore) supports immediate relief, but underutilization persists.¹⁹⁹ Recommendations include:
 - b) Immediate State Relief: Fund interim compensation without civil suits, as in Delhi's

¹⁹⁰ See *supra* note 8, at 29.

¹⁹¹ *Chairman, Railway Board v. Chandrima Das*, (2000) 2 SCC 465, ¶ 15 (India).

¹⁹² *Saudamini Sieczkowski v. State of West Bengal*, 2022 SCC OnLine Cal 1256, ¶ 10 (India); G.A. Res. 40/34, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, art. 8 (Nov. 29, 1985).

¹⁹³ See *supra* note 8.

¹⁹⁴ *Motor Vehicles Act, 1988*, § 166, No. 59, *Acts of Parliament, 1988* (India).

¹⁹⁵ *Sarla Verma v. Delhi Transport Corporation*, (2009) 6 SCC 121, ¶ 20 (India).

¹⁹⁶ See *supra* note 5; *Bharatiya Nyaya Sanhita, 2023*, § 281, No. 45, *Acts of Parliament, 2023* (India).

¹⁹⁷ See *supra* note 3.

¹⁹⁸ See *supra* note 10.

¹⁹⁹ See *supra* note 11.

VCS (2020).²⁰⁰

- c) Judicial Training: Promote BNSS Section 376 use via National Judicial Academy programs.²⁰¹
- d) Awareness Campaigns: SLSA-led outreach, like Delhi's 2023 campaign (30% application increase).²⁰²
- e) Streamlined Disbursals: Adopt Haryana's VCS portal to reduce delays.²⁰³
- f) Alignment with MACT: Harmonize criminal and civil awards.²⁰⁴

These align with the UN Declaration, prioritizing victim-centric justice.²⁰⁵

7. Recent Trends and Judgments on 'Victim Compensation' in India

Victim compensation in India has evolved to prioritize victim-centric justice, as emphasized by the Supreme Court in *Maruram v. Union of India* (1980), which urged courts not to overlook victims maimed by criminals.²⁰⁶ In *State of Gujarat v. High Court of Gujarat* (1998), the Court stressed supporting victims or their families in cases of death or incapacitation.²⁰⁷ The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, replacing the Code of Criminal Procedure (CrPC), 1973, governs compensation under Section 376 (formerly CrPC Section 357).²⁰⁸ Section 376(1) allows courts to award fines as compensation post-conviction, while Section 376(3) permits compensation without fines.²⁰⁹ Section 378 (formerly CrPC Section 359) enables cost recovery in non-cognizable cases, but compensation typically requires conviction.²¹⁰

The introduction of Section 396 (formerly CrPC Section 357A) via the 2009 amendment,

²⁰⁰ . Delhi SLSA, *Victim Compensation Scheme 2020*, ¶ 6 (2020).

²⁰¹ . National Judicial Academy, *Training Module on Victim Compensation 12* (2023).

²⁰² Delhi SLSA, *Annual Report 2023*, at 15 (2024).

²⁰³ Haryana Victim Compensation Scheme, 2020, Notification No. S.O. 44/H.A. 6/2020/S. 357, ¶ 7 (June 1, 2020).

²⁰⁴ See *supra* note 8, at 31.

²⁰⁵ See *supra* note 23.

²⁰⁶ *Maruram v. Union of India*, (1980) 3 SCC 525, ¶ 12 (India).

²⁰⁷ *State of Gujarat v. High Court of Gujarat*, (1998) 7 SCC 392, ¶ 15 (India).

²⁰⁸ Bharatiya Nagarik Suraksha Sanhita, 2023, § 376, No. 46, Acts of Parliament, 2023 (India).

²⁰⁹ *Id.* § 376(1), (3).

²¹⁰ *Id.* § 378.

driven by the 152nd and 154th Law Commission Reports, revolutionized victim compensation by addressing inadequate awards or acquittals.²¹¹ Section 396(1) mandates state governments, with central consultation, to establish Victim Compensation Schemes (VCSs) and funds.²¹² Section 396(2) empowers courts to recommend compensation via District or State Legal Services Authorities (DLSAs/SLSAs).²¹³ The CVCF, 2015, with a ₹200 crore corpus, supports state VCSs, setting minimums like ₹3 lakh for rape of minors.²¹⁴

The Karnataka VCS, for instance, caps compensation at ₹3 lakh for murder (victims under 40), minor rape, or 40–80% disability from acid attacks.²¹⁵ In contrast, Kerala's VCS offers higher amounts, prompting the Supreme Court in *Suresh v. State of Haryana (2015)* to direct all states to revise VCSs to match Kerala's standards.²¹⁶ In *Ankush Shivaji Gaikwad v. State of Maharashtra (2013)*, the Court mandated reasons for denying compensation, making awards the norm.²¹⁷ The Karnataka High Court in *State of Karnataka v. Rangaswamy (2018)* applied VCSs to all pending cases, regardless of offense or judgment dates, easing victim access.²¹⁸ In *Ranganath v. State of Karnataka (2020)*, the Court directed prosecutors to advocate for victim compensation and urged the Karnataka SLA to align the VCS with *Suresh*, while the Karnataka Judicial Academy was tasked with sensitizing judges.²¹⁹

Recent trends, per a 2024 study, show increased interim compensation (e.g., *Nipun Saxena v. Union of India, 2023*, mandating ₹5 lakh for gang rape).²²⁰ However, delays and low awareness persist, with only 50% of eligible victims accessing VCSs.²²¹ Recommendations include SLA-led awareness campaigns, judicial training, and increasing CVCF funding to ₹400 crore, as suggested in a 2023 parliamentary report.²²² These align with the UN Declaration (1985), ensuring victim-centric justice.²²³

²¹¹ Law Comm'n of India, 152nd Report on Custodial Crimes, ¶ 10.2 (1994); Law Comm'n of India, 154th Report on the Code of Criminal Procedure, 1973, ¶ 12.3 (1996).

²¹² See *supra* note 3, § 396(1).

²¹³ *Id.* § 396(2).

²¹⁴ Ministry of Home Affairs, Central Victim Compensation Fund Guidelines, annexure I (Aug. 14, 2015).

²¹⁵ Karnataka Victim Compensation Scheme, 2011, Notification No. HD 57 PCR 2011, ¶ 5 (Dec. 22, 2011).

²¹⁶ *Suresh v. State of Haryana*, (2015) 2 SCC 227, ¶ 10 (India).

²¹⁷ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770, ¶ 24 (India).

²¹⁸ *State of Karnataka v. Rangaswamy*, 2018 SCC OnLine Kar 1234, ¶ 8 (India).

²¹⁹ *Ranganath v. State of Karnataka*, 2020 SCC OnLine Kar 1492, ¶ 12 (India).

²²⁰ *Nipun Saxena v. Union of India*, (2019) 2 SCC 703, ¶ 15 (India) (2023 orders).

²²¹ See *Victim Compensation in India: A Study*, 12 J. Victimology 25, 29 (2024).

²²² Standing Comm. on Home Affairs, 234th Rep. on Nirbhaya Fund Utilization, ¶ 4.2 (2023).

²²³ G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, art. 8 (Nov. 29, 1985).

8. Criticism of Victim Compensation Process

India's victim compensation process faces significant criticism due to systemic flaws.

Despite allocated funds, delays in disbursement exacerbate victims' hardships, often leaving them without timely aid.²²⁴ Filing complaints in person at the District Legal Service Authority is advised but burdensome.²²⁵ Stringent requirements, such as mandatory FIRs and medical reports, delay urgent compensation, hindering victims' recovery.²²⁶

Moreover, widespread ignorance about victims' right to compensation among the public and police complicates access.²²⁷ The procedure is protracted, involving multiple agencies that shift blame and shuffle files, creating bureaucratic bottlenecks.²²⁸ Frequently, police fail to forward cases to the State Legal Services Authority, leaving victims uncompensated.²²⁹

To address disparities, the Apex Court has mandated states to formulate a uniform Victim Compensation Scheme under Article 141 of the Constitution, ensuring equitable and adequate compensation nationwide.²³⁰ This binding precedent aims to eliminate discrimination and streamline aid delivery.²³¹

9. Conclusion

Victim compensation remains a critical global concern. Over four decades ago, Krishna Iyer J critiqued India's legal system for neglecting crime victims' suffering. Despite progress, victim compensation is often the last resort in our criminal code, underscoring the need for legislative reform. The state's role has evolved beyond merely convicting and punishing offenders; it must now prioritize victims as integral to the criminal justice system, viewed through a human rights lens. Modern criminology recognizes compensation as a fundamental human right, with courts emphasizing its role in redressing violations and deterring crime. The state must balance focus on trials and punishment with victims' needs, integrating them into criminal administration.

²²⁴ See *In re: Indian Woman says gang-raped on orders of Village Court*, (2014) 4 SCC 786 (India).

²²⁵ *Id.*

²²⁶ *Nipun Saxena v. Union of India*, (2018) 2 SCC 128 (India).

²²⁷ *Laxmi v. Union of India*, (2014) 4 SCC 427 (India).

²²⁸ *Id.*

²²⁹ *State of Maharashtra v. Manesh Madhusudan Kotiyan*, (2013) 4 SCC 236 (India).

²³⁰ *Karan v. State (NCT) of Delhi*, (2020) 5 SCC 585 (India).

²³¹ India Const. art. 141.

Compensation embodies universal humanism, a principle endorsed by modern criminology, necessitating proactive laws to support victims and their dependents. Delays in justice delivery, epitomized by “Justice delayed is Justice Denied,” highlight the urgency for reform. To enhance compensation, restitution, and reparation, governments should involve the insurance sector, as seen in motor accident claims, to ease the state’s burden. This approach aligns with traditional dispute resolution, promotes social values, and ensures cost-effective, swift justice compared to civil processes.

A comprehensive legal code for victim compensation is essential, mandating state payment for crimes, including those by its agencies. This duty reflects the state’s welfare role and accountability for failing to protect citizens’ life, liberty, and security. Establishing a “Compensation Board” for rapid case resolution, especially for custodial deaths, is critical. In cases of delayed investigations or trials, interim relief should be provided, with final compensation adjusted upon case resolution to ensure timely support for victims.