
A CRITICAL AND ANALYTICAL STUDY OF THE VICTIM COMPENSATION SCHEMES IN INDIA

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ABSTRACT

Criminal justice systems around the world were for long obsessed with punishing offenders, human needs and the suffering of victims was entirely shed under the carpet. The victim was often regarded in most of the judicial systems merely as a witness whose testimony is essential for prosecution than as an individual who deserves protection, rehabilitation and justice. But eventually, both domestic and international law recognized that crime victims need more than merely legal recognition, but also financial, medical, and psychological assistance. India saw a significant change in Victim oriented criminal justice with the introduction of Section 357A into the Code of Criminal Procedure, 1973¹ under the Criminal Procedure Code (Amendment) Act, 2008.

Victim compensation programs are designed to provide victims of crime and their dependents with monetary assistance, rehabilitation services, medical care, counseling, temporary accommodation and other social services. These schemes acknowledge that criminal behavior produces effects that reverberate beyond injury emotional trauma, social degradation, economic deprivation, psychological torment. The same is true of these schemes, it also reflects the broader principles of restorative justice² which are basically what also leads to a vision of the harm caused to victims rather than simply punishing offenders.

The Paper discusses various aspects like meaning, evolutionary trajectory, constitutional basis, legal regime, judicial interpretation and implementation process and operational issues related to victim compensation schemes in India. It discusses the functions of judiciary, National Legal Services Authority (NALSA), State Legal Services Authorities (SLSAs) and District Legal Services Authorities (DLSAs)³ for ultimate rehabilitation of victims properly. Continuing, the paper assesses significant judicial pronouncements and compares the Indian framework for victim compensation with that of countries like the United Kingdom, USA and Canada.

¹ The Code of Criminal Procedure, No. 2 of 1974, section 357A (India).

² Andrew Ashworth, Responsibilities, Right and Retroactive Justice, 42 Brit. J. Criminology 578 (2002).

³ Legal Services Authorities Act, No. 39 of 1987 (India).

The paper also explores some gaps in implementation, including awareness problems, bureaucratic holdups, varied compensation norms between states, insufficient rehabilitation support and inadequate inter-institutional coordination. The paper concludes by outlining reforms to enhance the Indian victim compensation framework and thereby promote meaningful, timely justice for victims. Victim compensation as a right is, therefore, an integral part of a civilized criminal justice system and the onus is on India to work towards improving the accessibility, efficiency, awareness and uniformity for any such schemes.

I. Introduction

Crime is the most serious social problem confronting individuals, communities and nations. One person is injured, traumatized, impoverished or isolated from the community in any criminal act. Traditionally, criminal law has emphasized punishment of the offender; contemporary legal systems, however, not only recognize that the needs of victims are just as important but also believe those needs warrant responses separate from those directed at offenders. One of the most prominent developments in this connection is victim compensation.

Criminal justice systems around the world have tended to focus largely on the offender, a historic reality. The prosecution (criminal action in the name of the State) sought punishment, and victims generally were ignored once criminal proceedings were completed. Unless civil courts freely awarded damages, the victims' losses, financial, physical or psychological, tended to be ignored. As a result, victims so frequently endured "second victimization" through protracted legal processes that belied any possibility of obtaining substantive relief.

Victimology appears as an autonomous discipline in the twentieth century, including whether victims have rights. Academics have asserted that victims ought not to be seen as merely witnesses, rather those deserving of protection, participation and rehabilitation. International human rights instruments and especially the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)⁴ urged states to create a functioning reparations system for victims whose harm is so severe that restitution in kind is impossible.

The ethos of justice, equality and human dignity embedded in the constitution of India paved way to recognizing that victim compensation should form an integral part of criminal justice.

⁴ G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Nov. 29, 1985).

Indian Constitution. The Supreme Court has consistently held that Article 21 The Constitution⁵ also mandates a right to live with dignity and this constitutional protection against any crime extends even to victims. This event was followed by the legislative response that included Section 357A⁶ to be added to the Code of Criminal Procedure, 1973, making it mandatory for each and every State Government to prepare a Victim Compensation Scheme. This provision transformed the State-responsibility to rehabilitate victims from being a mere act of gratuitous charity by the State into an obligatory legal duty.

The functions of victim compensation today. It provides immediate financial compensation to victims and their families, supports medical treatment and rehabilitation, re-establishes faith in the justice system, and embodies the State's obligation to shield citizens from the fallout of criminal acts. Compensation is especially vital in acid attacks, rape, trafficking, terrorism, communal violence and children offences where victims are often left with deep-seated physical, psychological and economic consequences.

But even with legislative reforms and judicial activism, there are heavy obstacles ahead. The amount of compensation varies significantly among States, the administrative procedures are cumbersome, many victims do not know about such a provision and finally delay in disbursing the compensation makes even this exercise ineffective. This prompts a thorough review of existing frameworks and reforms to be made.

This research paper aims to analyze the evolution, jurisprudential basis, implementation and adequacy of victim compensation schemes in the Indian landscape correlating them with constitutional ethos and the paradigm of restorative justice.

II. Meaning of Victim Compensation

Victim compensation means the financial support given by the State, or the offender to a crime victim for an injury, losses or damage done as a result of criminal behavior. This compensation can include medical costs, cost of rehabilitation, loss of income, funeral expenses, education support and psychological counselling. In contrast with damages that are available as civil remedies, victim compensation is not primarily aimed at making good a loss in monetary terms but more at restoring the dignity of the victims and assisting them to reintegrate. The United

⁵ INDIA CONST. art. 21.

⁶ The Code of Criminal Procedure, No. 2 of 1974, section 357A (India).

Nations Declaration of 1985⁷ states that victims are individuals who have suffered harm including physical, mental, emotional or economic damage as a direct result of acts or omissions which are in violation of criminal laws.

III. Concept of Victimology

Victimology is the scientific study of victims, their relationships with offenders and within the criminal justice system. The field began to developed in the mid-20th century by researchers such as: Benjamin Mendelsohn⁸ Hans von Hentig⁹Marvin Wolfgang, Stephen Schafer¹⁰ and victimology seeks to understand: Causes of victimization, Rights of victims, Compensation mechanisms, Victim rehabilitation, Restorative justice and Victim participation in criminal proceedings. Contemporary victimology has developed an understanding that law should safeguard the interests of victims, along with those of society and offenders (V 2020).

IV. Need for Victim Compensation

Crime does not only harm its victims in a multitude of ways but this has transformed victim compensation into an integral part of criminal justice. Physical Injury Many victims are left with disabilities requiring lifelong treatment. Financial Loss Costs tied to medical bills, job loss, property damage and funeral services weigh heavily. Psychological Trauma Victims often suffer from depression, anxiety, fear, PTSD, emotional distress. Social Stigma Victims of sexual offences, acid attacks and trafficking are also treated in a discriminatory manner and excluded from the social structure. Constitutional Responsibility There is a duty on part of the State, in view of Articles 14 and 21¹¹, to ensure that the dignity and life of every individual is protected. Restorative Justice¹² Compensation addresses the scenario of reconciliation and rehabilitation instead of retribution.

V. Literature Review

The concept of victim compensation has received wide-ranging attention from legal scholars, criminologists and law reform commissions as well international organizations. Literature

⁷ G.A Res. 40/34, supra note 4.

⁸ Benjamin Mendelsohn, The Origin of the Doctrine of Victimology, 3 Excerpta Criminology 239 (1963).

⁹ Marvin E. Wolfgang, Patterns in Criminal Homicide(1958).

¹⁰ Stephen Schafer, The Victim and His Criminal (1968).

¹¹ INDIA CONST. arts.14 & 21.

¹² Andrew Ashworth, supra note 2.

shows the criminal justice system gradually shifts from an offender-oriented model towards a victim-centric approach, emphasizing rehabilitation coupled with dignity and restorative justice. It was Benjamin Mendelsohn, also known as the "Father of Victimology,"¹³ who became one of the first scholars to bring attention to a lack of focus on victims. He said the criminal justice system concentrated on offenders at his expense, paying no attention to his suffering and needs as a victim. Justice cannot be achieved unless victims are acknowledged, aided and compensated, Mendelsohn said. Hans von Hentig also examined the dynamics of offender-victim interactions in his landmark *The Criminal and His Victim* (1948). He insisted that if the criminal justice policies are to be developed in an effective manner and crime is to be prevented, victimization must be understood. In *The Victim and His Criminal* (1968),¹⁴ Stephen Schafer, for example, claimed that victims should be given enforceable legal rights instead of having to depend on discretionary help from governments. He considered a victim compensation as connecting the welfare state obligations instead of an act of charity. Indian researchers also analysed victim compensation focused on constitutional law and criminal justice reforms. According to Prof. N. V. Paranjape,¹⁵ compensation has a dual role: (1) retributive and (2) restorative or rehabilitative; compensation also generates faith in the justice system (as available). While speaking, Dr. K.I. Vibhute¹⁶ said "the right of victims is an integral part of safeguarding Right to Life and Dignity of Person, which is ensured under Article 21 of Indian Constitution."

The 154th Report of the Law Commission of India (1996)¹⁷ recognised that the existing system for compensation under Section 357 of Code of Criminal Procedure was inadequate and suggested a statutory scheme in the form of a comprehensive victim compensation scheme. Then the Committee on Reforms of Criminal Justice System (Malimath Committee Report, 2003¹⁸) made a very strong case for a state funded compensation scheme noting that victims have become "lost stakeholders" in criminal trials.

The objective of compensating victims has also been underscored by international organizations. In 1985 the United Nations Declaration¹⁹ of Basic Principles of Justice for

¹³ Benjamin Mendelsohn, *supra* note 8.

¹⁴ Stephen Schafer, *supra* note 11.

¹⁵ N.V. Paranjape, *Criminology and Penology* (20th ed. 2023).

¹⁶ K.I Vibhute, P.S.A Pillai's *Criminal law* (15th ed.2022).

¹⁷ Law Comm'n of India, 154th Report on the Code of Criminal Procedure, 1973 (1996).

¹⁸ Committee on Reforms of Criminal Justice System, Report of the Committee on Reforms of Criminal Justice System (2003).

¹⁹ G.A Res. 40/34, *supra* note 4.

Victims of Crime and Abuse of Power urged all member States to set up state compensation funds from which victims suffering serious bodily harm or impairment as a result of action by criminals would be compensated.

The literature confirms that compensation must no longer be considered merely as a form of financial help, but rather as an essential element of reparative justice, rehabilitation and the rights of individuals.

VI. International Mechanism of Victim Compensation and Constitution of India

Internationally, the institution of victim compensation has evolved a lot and there is increasing recognition that it is essential for victims to receive justice by punishing criminals but also compensated in an adequate manner by the State which has an obligation to help by rehabilitating them. International human rights law has placed a growing emphasis on the need for all victims to be treated with dignity, empathy and respect; it affirms that states have an affirmative obligation to provide victims with effective remedies for violations suffered by them. Such a transition from offender-centric criminal justice system towards victim-oriented paradigm was not confined to the west but has impacted even the legal reforms in India as well. A series of international conventions, declarations and human rights instruments have set standards requiring States to develop reparation or compensation²⁰. These global guidelines have been the cornerstone in formulating victim compensation legislations in India and continue to steer judicial interpretation of victims' rights.

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,²⁰ 1985 is considered one of the most important international instruments in this field and the cornerstone of contemporary laws on victim compensation. The Declaration was the first time around the world, the rights of victims were recognized universally and was adopted by the United Nations General Assembly. It presents victims as anyone who has suffered harm, whether directly or indirectly, that may result in physical injury, emotional suffering, mental trauma and/or economic loss or even substantially compromising or impairing any one of their basic human rights because of criminal acts or offenses. The Declaration provides that victims should be treated with fairness, compassion and respect for their dignity throughout the criminal justice process. It obliges States to provide victims with access to justice in a timely

²⁰ G.A. Res. 40/34, Declaration of Basic Principles of justice for victims of Crime and Abuse of Power (Nov. 29, 1985).

manner, which is equitable, as well as restitution from offenders whenever possible and compensation from the State if that is impossible or insufficient. It encourages other governments to create nationwide compensation funds and provide those affected with medical care, psychological support, social assistance, legal aid and rehabilitation services. While the Declaration does not impose any binding legal obligations, its value in convincing states has been immense, resulting in legislative reforms worldwide. Its principles inspired the legislative framing of Section 357A of the Code of Criminal Procedure²¹, 1973, which provided for a Welfare-State funded and Legal Services Authorities managed Victim Compensation Scheme in India.

Another key international treaty is the International Covenant on Civil and Political Rights (ICCPR)²² of 1966, which India is a State Party to. The ICCPR ensures respect for the inherent dignity of everyone and equal rights of all human beings, while also requiring States to provide adequate remedies where serious violations of these fundamental human rights have occurred. The Covenant does not explicitly require that States establish victim compensation schemes but Article 2 commits States to ensure that individuals whose rights have been violated are provided with accessible and effective legal remedies. We reinforce the principle that victims of crime will receive fair effective restitution and where applicable financial compensation. In India, the first reference to victim rights in judicial interpretation has been under ICCPR based on the concepts of equality before law; fair trial; protection of life and liberty; effective remedy. International human rights law often informs the study of Indian courts, as they have placed a large amount of reliance on international human rights principles in defining and expanding constitutional rights, and identifying compensation as an integral element of justice.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²³, 1979, highlights this further by requiring States to eliminate discrimination against women and provide protection from all forms of gender-based violence. While CEDAW does not itself enumerate compensation schemes, it demands that governments enact appropriate legislative, administrative and judicial measures to protect women from gender-based violence, sexual exploitation, trafficking and discrimination. The work on victim compensation schemes for women survivors of rape, sexual assault, domestic violence, acid

²¹ The Code of Procedure, No. 2 of 1974, section 357A(India).

²² International Covenant on civil and Political Right art. 2, Dec. 16, 1966, 999 U.N.T.S.171.

²³ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.Y.S 13.

attacks and human trafficking is consistent with the obligations under the Convention. The courts in India have often deliberated on CEDAW while interpreting constitutional guarantees related to women and acknowledged compensation as an integral tool of restorative justice for very serious crimes against women. Therefore, a number of the State Victim Compensation Schemes are able to pay higher compensation amounts and implement targeted rehabilitation measures for women victims of sexual and gender based violence.

In the same vein, the Convention on the Rights of the Child (CRC)²⁴, 1989, states that children who are victims of abuse; exploitation; trafficking or homelessness and other survival situations including armed conflict or violence also need special protection and assistance. According to article 39 of the Convention, States must make such arrangements which will enable child victims to recover their physical and psychological wellbeing and social reintegration in an environment which fosters the health, self-respect and dignity of the child. The Convention underlines the need to provide Accommodations, Health Care, Counselling, Education and Social Reintegration over and above just financial support. These principles were instrumental in shaping Indian laws pertaining to child victims including the Protection of Children from Sexual Offences (POCSO) Act, 2012²⁵ and several State Victim Compensation Schemes which grant exclusive compensation and rehabilitation benefits to children who are victims of sexual offenses, trafficking, child labour or other heinous crimes.

While the Constitution does not expressly recognize an independent victim right to compensation, its constitutional framework for India gives substantial legal basis to victims compensation. Rather, this is a right which has emerged from the interpretation of various Fundamental Rights and Directive Principles of State Policy by courts. Similarly, Article 14²⁶ ensures equal protection of the laws and the right to be treated equally by their oppressors. Empirical evidence provided throughout this article suggests that victim compensation schemes contribute to further substantive equality by providing support for victims who have suffered severe injury and could otherwise find it difficult to financially recover in light of their new circumstances. The principle of equal protection also requires similar treatment of victims in the compensation grant unless evident disparities exist.

The main constitutional ground for compensation of the victims revolves around one article

²⁴ Convention on the Rights of the Child art. 39, Nov. 20, 1989, 1577 U.N.T.S. 3.

²⁵ Protection of Children from Sexual Offences Act, No. 32 of 2012 (India).

²⁶ INDIA CONST. art.14

Article 21 right to life and personal liberty. The manner in which Article 21²⁷ The Right to Life has been interpreted by a string of judicial decisions, nowhere does it restrict itself to mere physical survival but rise above aspects of life: Right to live with dignity, right to health, right to medical treatment and rehabilitation, fair legal process, anything the law is hesitant or unwary on. The Court has consistently held that if a person is brutally harmed by crime or violation of fundamental rights, then compensation becomes an integral aspect to restore dignity and deliver substantive justice. Landmark judicial pronouncements like *Rudul Sah v. State of Bihar*²⁸, *Nilabati Behera v. State of Orissa*²⁹, *Bodhisattwa Gautam v. Subhra Chakraborty*³⁰ etc., have paved the way in making compensation a constitutional remedy under Article 21 [*Vishaka and Others vs State of Rajasthan*³¹]. As a result, victim compensation is now considered to be part of the constitutional right to live with dignity.

The philosophy behind victim compensation given Constitutional sanction finds greater reinforcement from the progressive nomenclature of the Directive Principles of State Policy. Emphasis on Social Justice: Article 38³² mandates the State to ensure social and economic justice and reduce inequalities in income, status and opportunities. Compensation schemes compensate victims for physical, emotional and economical harm caused by crime and contribute to mitigating social inequities, allowing the victim to take up their independence again. Article 39 A³³: Equal Justice and free Legal Aid The State shall ensure that the operation of the legal system promotes justice on a basis of equal opportunity, and shall further, by suitable legislation or schemes or in any other way, provide for free legal aid The object of this provision is to see do not get them into poverty trap. Whereon their side are responsible Victims would approach the Legal Services Authorities for making applications seeking compensation. Given that a large proportion of victims are from deprived sections of society, legal aid is an essential component in enabling real use of compensation schemes. Article 41³⁴: The State shall, within the limits of its economic capacity, make provision for public assistance in cases of unemployment, sickness, disability and undeserved want. Culpable homicide victims suffer long term physical disabilities, psychological trauma, loss of livelihood as well

²⁷ INDIA CONST.art.21.

²⁸ *Rudul Sah v. State of Bihar*, (1983)4 SCC141 (India).

²⁹ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746 (India).

³⁰ *Bodhisattwa Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490 (India).

³¹ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (india)

³² INDIA ONST. art.38.

³³INDIA CONST. art.39A.

³⁴ INDIA CONST. art.41

as severe financial distress; hence the need for victim compensation schemes is therefore a significant way that we can help serve the constitutional goal encapsulated in Article 41. In addition to this, even Article 51(c)³⁵ obliges India to promote respect for international law and treaty obligations. This constitutional mandate has pushed Indian legislatures and courts to align domestic laws with international human rights legal standards for the protection, rehabilitation, and compensation of victims.

Therefore the international legal regime and the constitutional philosophy of India together constitute a consolidated basis for compensation to victims. International instruments like the UN Declaration of 1985, the ICCPR, and CEDAW also provide for rights of victims in the form of justice, restitution, rehabilitation, and effective remedies; and Articles 14, 21, 38, 39A, 41 and 51(c) recognize such principles under Indian constitutional provisions. Judicial activism, along with legislative reforms and incentives now makes victim compensation a compulsory aspect of a victim-centric criminal justice system rather than the discretionary form of relief that it used to be. Despite practical difficulties in implementation persisting till today, the intersection of international human rights law and constitutional jurisprudence has certainly played a crucial role in reinforcing recognition of victims' rights, as well as moving towards creating a more compassionate, just, and rehabilitative criminal justice system in India.

VII. State victim Compensation Schemes

Under Section 357A CrPC³⁶, every State and Union Territory has notified its own Victim Compensation Scheme. These schemes tend to compensate victims of: Murder, Rape, Gang rape, Acid attack, Human trafficking, Child sexual abuse, Permanent disability, Loss of livelihood, Terrorism, Communal violence.

However, monetary compensation varies greatly from State to State and thus, leads to different treatment.

SC Power of the High Court to Award Compensation with Comparable or More Amount than Statutory Funds for Same Offence

³⁵ INDIA CONST.art.51(c).

³⁶ The Code of Criminal Procedure, No. 2 of 1974, section 357A(India).

VIII. Role of legal services authorities, and implementation of the victim compensation scheme

The introduction of 357A for the Code of Criminal Procedure, 1973 (CrPC) represented an important landmark moment in law by recognizing victims as participants in the criminal justice system. Notably, what makes the Victim Compensation Scheme successful has been largely a matter of judicial interpretation. The nature and extent of the rights of victims were broadened by the Supreme Court and different High Courts who held that compensation is not a matter of charity but a constitutional duty arising out of the States obligation under Article 21 to ensure protection to life and dignity.

In addition to the judiciary, centers like the National Legal Services Authority (NALSA), State Legal Services Authorities (SLSAs) and District Legal Services Authorities (DLSAs) are important institutions involved in executing compensation schemes. The chapter looks at their roles, the Central Victim Compensation Fund and some landmark judgments making victim compensation a vital part of restorative justice.

Contribution of the National Legal Services Authority (NALSA)

National Legal Services Authority (NALSA)³⁷ & Nalsa is the apex statutory body established by the Legal Services Authorities Act, 1987, for which it has been mandated to provide free and competent legal services to people. The Act is made to implement the Article 39A of the Constitution³⁸ of India that directs the State to provide free legal aid in order to ensure justice for every citizen who may not have access due to economic or any other disabilities. At first, the functions of NALSA were limited to legal aid and legal awareness; but following the introduction of Section 357A in the Code of Criminal Procedure, 1973 by way of the justice programme on amendment Act, 2008, its role has increased considerably. It was with this in mind that the National Crime Records Bureau was given the task to be the major agency coordinating and overseeing implementation of Victim Compensation Schemes at a national level. NALSA prepares model victim compensation schemes, and also issues policy guidelines to State Legal Services Authorities for introducing uniformity in the operation of victim compensation programmes. It also oversees the functioning of these schemes, ensures timely disbursement of compensation and encourages States to develop victim-friendly procedures.

³⁷ Legal Services Authorities Act, No.39 of 1987 (India).

³⁸ INDIA CONST.art.39A.

Additionally, NALSA also conducts legal literacy and awareness programmes for victims on their statutory rights and several remedies particularly among marginalized/vulnerable communities. It positively advocates rehabilitation by way of psychological intervention, medical care, legal service, educational support and skilled training for the victims. Firstly, among NALSA's most landmark contributions was, the formulation of the Compensation Scheme for Women Victims/Survivors of Sexual Assault and Other Crimes³⁹, which lays down minimum standards of compensation to be paid to victims of rape, acid attacks and human trafficking etc. It has basically acted as the guiding framework for States and has gone beyond establishing minimum compensation by focusing on narrowing gaps while also helping to strengthen a victim centric approach in its Indian criminal justice system.

Importance of State Legal Services Authorities (SLSAs)

State Legal Services Authorities (SLSAs) are the nodal agencies for implementing Victim Compensation Schemes at the State level. Each SLA (State Legal Services Authorities) shall be headed by the Patron-in-chief which shall be Chief Justice of the respective High Court and all ongoing administrative links between NALSA (National Legal Services Authority) and District Legal Services Authorities would operate through SLSAs which were constituted under the Legal Services Authorities Act, 1987. With the subsection of Section 357A CrPC⁴⁰ coming into force, it was now mandatory for every State Government in coordination with its SLA to introduce a Victim Compensation Schemes so as to provide monetary support and rehabilitation to victims of crime and their dependents. The SLSAs are tasked with receiving recommendations from criminal courts on victim compensation, processing any applications made by victims or their counsel, as well as determining the degree of physical injury, mental pain and suffering, emotional distress, disability expenses and loss of earning capacity. They assess these and decide on the correct level of compensation under the State Victim Compensation Scheme. They also oversee and control the implementation of District Legal Services Authorities, to ensure that scheme works uniformly in every district. Also, SLSAs work in collaboration with police officials, hospitals / medical boards to obtain case details; forensic centres for report conducting; social welfare dept., child & women welfare agencies and non-govt. organisations to expedite the settlement/ disposal of compensation claims while securing holistic rehabilitation of the victims. They review and update the compensation

³⁹ National Legal Services Authority, Compensation Scheme for Women Victims/ Survivors of Sexual Assault/ Other Crime (2018).

⁴⁰ The Code of Criminal Procedure, No. 2 of 1974, section 357A (India).

policies at regular intervals to compensate for inflation, increased medical expenses and variable socio-economic situations so that the awarded amount remains realistic and sufficient. As mentioned earlier, SLSAs are responsible for constant monitoring of existing victim compensation schemes; involved in policy development with respect to victim compensation schemes and coordinating between various government departments and agencies which is critical to ensure that victim compensation schemes operate efficiently, fairly and in accordance with the tenets of restorative justice.

Effect of the District Legal Services Authorities (DLSAs)

District Legal Services Authorities (DLSAs) are the most essential implementing agencies of the Victim Compensation Schema, as they function at the district-level and have close interaction with victims. Every District Legal Services Authority is constituted under the Legal Services Authorities Act, 1987 and operates under the chairmanship of a District and Sessions Judge as the principal institution to receive, process and decide compensation applications. Victims can either come directly to the DLSA or may apply through a referral by criminal courts, police machineries, hospitals or even State Legal Services Authorities. After getting an application, the DLSA carries out a preliminary inquiry wherein it gathers medical records, FIRs, charge sheets, disability certificates (if applicable), post mortem report (in case of death), and other essential documents required to evaluate the claim. It assesses the bodily injuries, mental shock, emotional distress, loss of earnings capacity or permanent disablement incurred due to injury or death, medical bills curtailing the victim's education and any other financial loss. For crimes causing urgent economic loss, the DLSA may also issue orders for provisional compensation during the criminal case itself, enabling victims to receive immediate medical care and other necessary rehabilitation services. Upon concluding the inquiry, the DLSA fixes the final quantum of compensation as per the relevant guidelines in a State Victim Compensation Scheme and ensures its expeditious disbursement. Apart from these, DLSAs also liaise with hospitals and social welfare departments as well as various other institutions, educational Institutions, vocational training centres, mental health professionals and child welfare committees and NGOs. to provide holistic rehabilitation services covering medical care (treatment of victims), psychological counselling for survivors, legal assistance in terms of securing justice or compensation measures through amendment in law or policy measures at the State level post-recovery stage education support skill– development based employment support along with social reintegration of the survivor to help regain their life back.

Accordingly, DLSAs are instrumental in transitioning victim compensation from a monetary based remedy to an integrated rehabilitation tool that can provide restoration of dignity, self respect and independence of victims of crime.

Central Victim Compensation Fund (CVCF)

To facilitate the constitution of such schemes & ensure uniformity in the amount payable by State Governments to victims in the country, the Central Government had constituted the Central Victim Compensation Fund (CVCF)⁴¹. As victim related schemes are mostly State Government administered, substantial differences in compensation availed were also present owing to different levels of financial resources and administrative capacity. Responding to these inequalities, the Central Government established on 06-12-2019 an undertaken fund called Crime Victim Compensation Fund (CVCF) working as an extra monetary tool to State Victim Compensation Funds so victims of serious offences are compensated without regards towards variations in States. The Fund seeks to alleviate inequalities between States, close financial shortfalls, strengthen rehabilitation programmes and ensure that for lack of sufficient resources at the State level compensation is not denied. It ensures that the victims of awful offences specifically Rape/gang rape/acid attacks/human trafficking/child sexual abuse/cross border crimes/Terrorist Acts and Other Offences involving severe physical, psychological or economic harm are protected by the CVCF. It allows States to avoid paying higher compensation, long term care, medical treatment and reconstruction of body parts, counselling for psychological suffering, education assistance and vocational training; shelter and other services to support victims in reaching a full recovery. It also promotes victim-centred practice by complementing States parties' own available resources and by helping to ensure minimum standards of compensation at the national level. The Central Victim Compensation Fund is clearly a significant advance in the quest for actualizing equity, supporting uniformity and, above all, making the current government arrangement more viable. The CVCF, by enhancing the financial abilities of State Governments and assisting long-term rehabilitation for victims, reinforces the constitutional commitment to social justice while also driving India's shift toward a restorative-focused approach with victim empowerment in the criminal justice system.

⁴¹ Ministry of Home Affairs, Government of India, Notification Establishing the Central Victim Compensation Fund (Dec. 6, 2019).

IX. Landmark Judicial decision

Chairman, Railway Board v. Chandrima Das (2000) 2 SCC 465

In *Chairman, Railway Board v. Chandrima Das*⁴² (2000) 2 SCC 465, a Bangladeshi woman was gang-raped by four Indian Railways employees in the railways guests home at Howrah Railway Station. A PIL was filed for the victim to be compensated on the basis that government servants had committed the offence during their service. Vicarious liability: The Supreme Court observed that the wrongful acts by the employees of the State, resulting in violation of fundamental rights of an individual made the State vicariously liable, as a necessary corollary. The Court finally noted that the right to life and personal liberty under Article 21⁴³ of the Constitution is available not only to Indian citizens but also to foreigners. Accordingly, the Court allowed compensation of (Rs.50,000/-) fifty thousand only to the victim being a constitutional remedy for infringement of her fundamental rights. The Supreme Court judgement of 12-10-2023 cemented the principle that award of compensation is a meaningful remedy for violation of Article 21 as a public law right, besides reiterating the constitutional doctrine of State enabling action against individual officials/compliance who violate constitutional rights.

Ankush Shivaji Gaikwad v. State of Maharashtra (2013) 6 SCC 770

The Supreme Court in the case of *Ankush Shivaji Gaikwad v. State of Maharashtra*⁴⁴ [2013] 6 SCC 770 has dealt with the object and intent behind Section 357 of the Code of Criminal Procedure, 1973 (the Code) providing for exercise by criminal courts to award compensation to victims. The key question that arose before the Court was whether Section 357 which empowers a court to award compensation is a discretion or duty in every appropriate case. The Supreme Court ruled that in every case, the criminal courts should apply their mind to the issue of victims compensation and give reasons if no compensation was to be awarded. The Court reiterated that a failure to deal with the issue of compensation without giving any rationale constitutes an improper exercise of judicial discretion. It noted that victim compensation is an integral part of the restorative justice process and should be ordered in conjunction with sentencing whenever circumstances warrant that form of relief. This judgment fed into developing victims' rights - so compensation became a normal part of the criminal penalty

⁴²Chairman, Railway Board v. Chandrima Das, (2000) 2 SCC 465 (India).

⁴³ INDIA CONST .art. 21.

⁴⁴ Ankush Shivaji Gaikwad v. State of Maharashtra (2013) 6 SCC 770 (India).

rather than being an exceptional / discretionary measure.

Laxmi v Union of India (2014) 4 SCC 427

Laxmi, an Acid Attack survivor filed a public interest litigation in the case of *Laxmi v. Union of India*⁴⁵ (2014) 4 SCC 427 against the inadequate measures taken to regulate acid sales and sought appropriate direction for providing complete rehabilitation measures for victims of acid violence. Given the traumatic physical and psychological debilitating impact along with the social seclusion that results from acid attacks, the Supreme Court laid down a few historic guidelines for everyone including both Central and State Governments. The Court laid down stringent regulation for sale of acid, ordered mandatory provision of free medical treatment and reconstructive surgeries to all acid attack victims and ruled that compensation awarded to victims under Victim Compensation Scheme be adequate. The Court also added that remedies should not merely be monetary relief but comprise comprehensive amenities such as continuous rehabilitation, counselling and social integration. This ruling significantly broadened the definition of victim compensation, as while interpreting Section 357 the Supreme Court held that it is the responsibility of the State to guarantee total rehabilitation and restoring dignity to acid attack victims. It continues to be one of the milestones in venerating a victim-centric approach to India's criminal justice system.

Nipun Saxena v Union of India (2019) 2 SCC 703

In this case, *Nipun Saxena v. Union of India*⁴⁶[2], the issue before the Supreme Court was regarding identity and privacy protection mechanism and rehabilitation to sexual offences victims (survivors). The Court noted that survivors of rape and sexual assault are left with psychological trauma, social stigma and loss of earnings due to the incident, in addition to various other hardships created by such a crime, making rehabilitation very important. In a bid to provide uniform compensation to the victims across all States and Union Territories, the Supreme Court directed all States/Union Territories to adopt the Compensation Scheme for Women Victims/Survivor of Sexual Assault and Other Crimes prepared by National Legal Services Authority (NALSA). The Court stressed for the grant of immediate compensation to be accompanied by proper rehabilitation, medical treatment and psychological counselling along with education and livelihood support. The judgment bolstered the implementation of Section 357A CrPC and therefore achieved consistency in awarding compensation to survivors

⁴⁵ *Laxmi v Union of India (2014) 4 SCC 427 (India).*

⁴⁶ *Nipun Saxena v Union of India (2019) 2 SCC 703 (India).*

of sexual offences, which also echoes the principles of dignity, privacy and restorative justice.

Suresh v State of Haryana (2015) 2 SCC 227

In *Suresh v. State of Haryana*⁴⁷ (2015) 2 SCC 227, the Supreme Court considered the provisions of Section 357A of the Code of Criminal Procedure on court obligation to rehabilitate victims. The Court said this arises precisely in situations where their rehabilitation is required owing to injuries or losses suffered by them because of a criminal offence, so the award of compensation under Section 357A becomes an inseparable part of justice. It also noted that criminal courts cannot be passive, but need to actively refer eligible cases in question to the relevant Legal Services Authorities for award of compensation. The judgment made it clear that victim compensation should not be treated merely as an equitable relief, but a statutory tool to help restore victims as far as possible. The Supreme Court made a significant contribution to the effective operation of the Victim Compensation Scheme and upheld that rehabilitation of victims is an essential goal of the criminal justice system by now directing courts to actively move quickly to help ensure compensation.

X. Compensation for Specific Categories of Victims

Victims of Sexual Offences

Rape, gang rape, aggravated sexual assault affect not only their female victims in the long term with physical and psychological trauma but also social behaviour. Compensation generally covers: Medical expenses, Psychological counselling, Rehabilitation, Shelter, Educational support, Loss of income.

But NALSA's scheme provides minimum compensation⁴⁸ which is obviously a huge amount for such victims.

Acid Attack Victims

Survivors of acid attacks are in need of considerable medical assistance, reconstruction and rehabilitation. Courts have said again and again that the compensation must reflect "the lifelong nature of these injuries".

⁴⁷ *Suresh v State of Haryana (2015) 2 SCC 227* (India).

⁴⁸ National Legal Services Authority, Compensation Scheme for Women Victims/ Survivors of sexual Assault/ Other Crime (2018).

Child Victims (POCSO Cases)

Child victims are entitled to compensation under Protection of Children from Sexual Offences Act, 2012⁴⁹ (POCSO): Medical treatment, Psychological rehabilitation, Educational support, Relocation where necessary, Long-term care.

Compensation on the occasion of State Victim Compensation Schemes, Special Courts may advise.

Victims of Human Trafficking

Often times, trafficking victims will call for a rigorous rehabilitation⁵⁰ that involves: Safe shelter, Medical treatment, Counselling, Vocational training, Reintegration into society

Compensation, therefore, aims to support their recovery and reduce the chances of repeat abuse.

Victims of Terrorism and Communal Violence

The compensation schemes have been established in many States for victims of terrorist attacks and communal violence. These schemes typically provide: Ex gratia payments, Medical assistance, Educational support for dependents, Housing assistance, Employment benefits.

XI. Critical analysis, problems faced, comparative study

Across India, the Victim Compensation Scheme represents a major paradigm shift in its criminal justice system by recognizing victims as rights-holders who have a right to receive financial assistance and rehabilitation. The scheme has enhanced victims' entitlements by creating a separate duty on the State to pay compensation regardless of offender solvency⁵¹ or whether the offender is known. By offering medical treatment, psychosocial counselling, educational assistance, vocational training and support services it proposes a rehabilitative approach. With emphasis on vulnerable victims (victims of rape, acid attack, child abuse and other forms of human trafficking), the judiciary particularly the Supreme Court⁵² has been

⁴⁹ Protection of Children from Sexual Offences Act, No. 32 of 2012 (India).

⁵⁰ Convention on the Elimination of All Forms of Discrimination Against Women Arts. 2, 6 Dec. 18, 1979, 1249 U.N.T.S. 13.

⁵¹ The Code of Criminal Procedure, No. 2 of 1974, section 357A (India).

⁵² Ankush Shivaji Gaikwad v. State of Maharashtra (2013) 6 SCC 770 (India).

interpreting its provisions liberally to provide effective reliefs and access to justice.

Nonetheless, the scheme still deals with numerous application challenges that limit its impact. More importantly, the lack of a uniform national compensation policy has led to huge variations in compensation amounts from State to State. The impact of the scheme is further diminished by delays in vetting applications, insufficient funding, public awareness deficit, cumbersome processes and inadequate rehabilitation services. Legal aid and compensation mechanisms tend to be less accessible in rural locations where most of the victims are, equally those survivors of sexual offences who may seek compensation as a result of social stigma or potential violence against them. Some of those reforms include compensation by way of a uniform national corpus, time-bound disposal of applications for compensation, a digital application-tracking system with a provision to appeal against rejection or delay in granting compensation; measures to improve public awareness of the benefits available and availability and quality of rehabilitation services; periodic revision in amount paid as compensation (as the existing scheme allows); setting up an independent monitoring Authority on implementation; and training police/prosecutors/judicial officers and Legal Services Authority staff regularly on rule under this law if all that has to be changed so that our criminal justice is truly victim-centric.

XII. Suggestion

In order for the Victim Compensation Scheme to successfully meet its purpose of providing timely relief and rehabilitation to victims of crime, reforms are needed. Introduce a uniform compensation policy⁵³ at the national level to minimize variations in compensatory amounts across States and provide parity for victims in similar situations. The process should be time bound, i.e. the applications should be disposed of in 60 to 90 days with interim compensation paid immediately where necessary. A centralised digital platform⁵⁴ should be developed that provides first responders with a single outlet to submit claims online, upload documents, monitor the status of their claims and get compensation via Direct Benefit Transfer⁵⁵ (DBT). Police stations, hospitals, courts and legal aid centres should carry out widespread publicity campaigns regarding the legal entitlements of the victim as well as possible courses of action. It makes financial sense to introduce a legal obligation on police officers to inform eligible

⁵³ Committee on Reforms of Criminal Justice System, Report of the Committee on Reforms of Criminal Justice System (2003).

⁵⁴ National Legal Services Authority, Standard Operating Procedure for Victim Compensation (where applicable).

⁵⁵ Ministry of Finance, Government of India, Direct Benefit Transfer Guidelines.

victims of their compensation rights earlier in the process. Also, compensation should also provide for comprehensive rehabilitation measures, including free counselling, long-term medical treatment, vocational training, education and employment support. Compensation totals should be adjusted periodically to keep pace with inflation and the rising costs of healthcare. There should be a national independent monitoring authority to monitor the scheme's working at the state level, total applications received and disposed-based refunds/rehabilitation based on each State. Lastly, look at the judicial officers, prosecutor police personnel and Legal Services Authorities. They should be trained on the victim's rights frequently to make them more effective in delivering a compassionate crime victims-centered criminal justice system.

XIII. Conclusion

Recognition of victim compensation is a game changer in the Indian criminal justice system. However, criminal law has a long history of focusing solely on the prosecution and punishment of the offender, often leaving victims with little means or access to legal recourse. The inclusion of Section 357A in the Code of Criminal Procedure⁵⁶, 1973 changed this approach drastically by placing a clean legal obligation to ensure compensation and rehabilitation for victims of crime in the State.

Articles 14, 21, 38, and 39A provide a normative grounding for victim compensation in constitutional principles. Focusing on dignity, rehabilitation and access to justice, judicial pronouncements of the Supreme Court, especially in cases such as Delhi Domestic Working Women's Forum,[8] Bodhisattwa Gautam[9], Ankush Shivaji Gaikwad[10], Laxmivii & Nipun Saxenavii have played an important role in widening the ambit of victims' rights.

Victim compensation schemes have been institutionalized with the setting up of National Legal Services Authority⁵⁷, State Legal Services Authorities and District Legal Services Authorities. However, implementation continues to be hindered by inequalities amongst States, procedural backlogs, lack of awareness-raising and limited reparation and rehabilitation services.

Victim compensation should not only be seen as financial aid; it must also be regarded as recognition of the constitutional and moral duty of the State to protect people affected by crime.

⁵⁶ The Code of Criminal Procedure, No. 2 of 1974, section 357A (India).

⁵⁷ Legal Services Authorities Act, No. 39 of 1987 (India).

Someone who needs to recover from a physical injury, psychological trauma or economic loss must be supported. Hence, compensation should be supplemented with medical assistance, counselling and therapeutic services, education facilities, vocational training and social reintegration.

India has come a long way in identifying victims' rights but there are still miles to go in making sure that every victim, regardless of zip code or economic class gets timely, complete and effective help. Establishment of national uniform policy, enhanced institutional coordination, technology integration and sustained public awareness would render more strength to the victim compensation framework.

A fair criminal justice system is ultimately one that also protects victims rights, you recognize that restoring the dignity, safety and confidence of victims is paramount. Establishing the Victim Compensation Scheme is a first step towards realising that constitutional vision.