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Is Victim Compensation Scheme in India Sufficient?

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ABSTRACT

The main evil of our society is “crime”. This can’t be neglected nor denied. In crime there are basically two parties i.e. Offender & Victim. The former means a person who has committed a wrong or illegal act. The latter means the person against whom such illegal or wrongful act has been done. The offender will be punished for the crime committed by him but the main concern is of the victim. Whether the victim’s family is in a position to afford his/her treatment or not. Just punishing the offender isn’t enough. There are provisions covering the matter of compensation to victim under various legislations. This scheme is a unique concept made by Indian Judiciary for securing absolute justice. The concept of victim scheme is developing gradually since the Indian Constitution was made.

I. INTRODUCTION

In the 41st Report of The Law Commission of India, the importance of compensation was distinguished by the word “substantial”. Due to this cases regarding nominal charges were alienated. As a consequence of that situation, section 545 of Code of Criminal Procedure Code (CrPC) was re- introduced as section 357 of CrPC. Article 14 & 21 of The Indian Constitution protects the rights of a victim. Landmark judgments such as *Rudal Shah vs. State of Bihar*, *MC Mehta vs. Union of India* played a pivotal role in evolution of principle of compensatory jurisprudence in India. Every state government with the help of central government should work on making plans for victim compensation scheme. This would help the victim or dependents of the victim who have suffered loss & would also help in rehabilitation. In 154th amendment it was seen that the practical application of section 357 of CrPC was not achieved. So, in order that it works practically well section 357A was introduced (Dube, 2018).

II. OBJECTIVE

According to section 357 of CrPC “Order to pay Compensation”:

(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of

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which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied:-

- a) in defraying the expenses of properly incurred in the prosecution;
 - b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;
 - c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death.
 - d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property is restored to the possession of the person entitled thereto (SINGH, 2020).
- (2) If the fine is imposed in a case which is subject to appeal no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has elapsed, or, if an appeal be presented, before the decision of the appeal (Rajan, 1995).
- (3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person as been so sentenced.
- (4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.
- (5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

According to section 358 of CrPC:

It provides compensation to a person who was arrested without any sufficient ground. There must be a direct connection between the complainant and the person arrested. In such situation a compensation to the extent of ₹1,000 may be provided to the person who has been the victim for the same.

III. ELIGIBILITY

The basic condition for the grant of compensation under the above said scheme is that there must be loss or injury to the victim due to which substantial loss has been suffered by the family of victim in monetary terms, or where the family has to spend beyond their limit on the victim's medical treatment (Qudder, 2015).

The word "substantial" means considerable or extensive.

IV. PROCEDURE

The process for the compensation has been kept simple. When an application has been made by the court, The State Legal Service Authority (SLSA) has to verify the facts raised in the claim & after making the due enquiry , the grant amount is decided by the authority (SLSA) & the grant is given to the victim (Rubenfeld, 1985).

V. FACTORS IN DECIDING COMPENSATION

- (1) Degree of offence
- (2) Injury suffered by the victim (Both in mental & physical terms)
- (3) Expenses incurred on medical treatment
- (4) Loss of job
- (5) Loss of education
- (6) In case of death, number of dependents

VI. CONCLUSION

Orders must be made to provide the best deal to the victim, whereby he/she is able to rehabilitate, re-assimilate and re-socialize for a dignified living. Simplicity of procedures must be emphasized upon and imposition of burden on victims to secure certificates, provide documents etc. should be reduced, so far as possible. Interim relief to victims must be provided, especially in cases of gang rape, acid attacks, etc., without the least emphasis on formalities and technical procedures. The pendency of applications should be addressed since VCS largely works on the foundation of speedy relief to victims. Lastly, the amount set by the states must be in tune with the prevailing costs of living, medical treatment, psychological assistance etc.

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