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Victim Justice and Human Rights

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ABSTRACT

Crime has a significant impact on a lot of victims. People who experience harm, whether it be physical, social, or financial, should have access to justice. The impact of crime on victims has recently taken focus away from criminal law jurisdiction, and it has been concluded that victims should be treated empathetically and that their fundamental rights must be upheld. Today victimology is a new area of criminology that focuses on understanding the viewpoint of victims. Protecting crime victims is a significant source of concern because conditions are not improving globally. Simple compensation aims to make up for what would otherwise be considered unlawful injuries to people or their property. It has been mentioned in accordance with several sections of the Motor Vehicle Act of 1988, The Rehabilitation of Offenders Act, and the Code of Criminal Procedure. Understanding the victims' point of view, the necessity of victim compensation, Indian regulations and statutes, and the judicial trend around victim compensation are the main topics of this essay.

I. INTRODUCTION

Crime has a significant impact on a lot of victims. People who experience harm, whether it be physical, social, or financial, should have access to justice. The impact of crime on victims has recently taken focus away from criminal law jurisdiction, and it has been concluded that victims should be treated empathetically and that their fundamental rights must be upheld. Today's victimology is a new area of criminology that focuses on understanding the viewpoint of victims.

The protection of crime victims is a significant source of concern because conditions are not getting any better globally. Simple compensation aims to make up for what would otherwise be considered unlawful injuries to people or their property. It has been mentioned in accordance with several sections of the Motor Vehicle Act of 1988, The Rehabilitation of Offenders Act, and the Code of Criminal Procedure.

Understanding the victims' point of view, the necessity of victim compensation, Indian regulations and statutes, and the judicial trend around victim compensation are the main topics of this essay.

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II. CONTEXT

Crime has a significant impact on a lot of victims. People who experience harm, whether it be physical, social, or financial, should have access to justice. The impact of crimes on offenders has recently taken focus away from criminal law jurisdiction, resulting in the concluded that victims should indeed be treated compassionately and that their fundamental rights must be upheld. Today's victim-logy is a new area of criminology that aims to comprehend the viewpoint of victims.

III. VICTIM RESTITUTION

The treatment of crime victims is a significant source of concern because conditions are not getting any better globally. The victims were not criminology's top priority for an extremely long time. Compensation serves a straightforward purpose. Compensation helps the victim get justice for what would otherwise be considered unlawful harm to their person's property.

The growth of victim compensation was a significant problem for the victim assistance movement. The fact that there has been a lot written over the years concerning the structure and purpose of victim compensation may contribute in part to the disagreement in opinion. Victim support takes the form of victim compensation, which helps the victim with social, emotional, and physical needs. A has been essential to the victim's healing. The part that victim compensation will play in future victim assistance initiatives is not given much consideration.

IV. DEFINITION, NATURE, AND SCOPE OF VICTIM COMPENSATION

Victimology is now more than just the study of criminal relations. But victim compensation is also becoming more significant. Any person who has suffered harm has a right to recompense for themselves and their dependents. In the middle Ages, the offender or his family would pay restitution for any wrongdoing. The state is required to pay the compensation if the accused lacks the financial means to do so.

"Ubi jus ibi remedial is a tort law theory that maintains that there is no harm without the need for a remedy and that upholding the law requires that no one be inconvenienced by wrongdoing.

In tort law, compensation is a required measure, and the principles controlling compensation and harm assessment are widely accepted.

Reimbursement for the losses caused is what is meant by "compensation" in the current situation. Compensation, often known as an item given to make restitution for a loss, reimburse, compensate, or pay, is something that is paid to bring about equality. One way to

look at it is as a civil society's responsibility. In contrast to penalties, recompense is given for any illegal act that results in a person's loss or damage. Amounts of money are awarded as compensation for losses or damages. Compensation's primary goal is to make up for the loss. The key to offering compensation is to offer assistance to the victim who has suffered harm—whether it be physical, psychological, or emotional—and to encourage the sufferer in their efforts to get over the trauma as quickly as possible. Compensation should act as a helping hand.

Victims must be compensated:

In *Maru Ram v. Union of India*, the Hon. Supreme Court emphasized the significance of victim compensation. "In the criminal justice system, a victim of crime cannot be a 'forgotten man. The most suffering was experienced by him. Particularly in terms of the deaths and physical injuries, his family is distraught. This is in addition to other things like humiliation and loss of honor. The monetary settlement will at least provide some consolation when an honor or life is lost and cannot be recovered.

V. PURPOSE OF COMPENSATION

When a victim of any crime receives compensation, it becomes extremely significant to that person since it represents justice toward the victim and might be viewed as financial assistance for the victim.

- When compensation is granted, it indicates that the victim did something wrong in the eyes of the community.
- The compensation would serve as a step toward assisting the victim in overcoming the trauma and personal losses they have experienced.
- Victims who receive compensation can change their lives.

Money for Paying the Victims' Compensation: Depending on the circumstances, both the criminal and the state may offer compensation. In some states, there are state-run programmes for dealing with violent crimes. It is useful if there is a state-funded programme to provide compensation to the victims in situations where it is not required for the offender to be captured or known. In essence, governmental programmes are more biased than any formal civil proceeding. The funding for victim compensation may come from a variety of sources, including confiscated property, fines, tax revenues, and other funding from the government or any private institution.

Compensation claims for victims may be raised on a variety of grounds, including but not

limited to:

- Suffering brought on by physical or mental abuse
- Medical expenses
- Unpaid or inadequate compensation
- Criminals may fine someone for misbehaving.

VI. INDIAN POSITION: VICTIM COMPENSATION

Various regulations concerning compensation have been specified under various sections of the Code of Criminal Procedure, The Probation of Offenders Act, 1958, and The Motor Vehicle Act, 1988.

1. The CrPC's provisions

The C.R.P.C. 1973 has given the courts in India that hear criminal cases the authority to order compensation for anyone who has suffered loss or harm. Compensation provisions are covered by Section 357.

It is supplied under Section 357(1).

"Whenever a criminal court imposes a fine or a sentence—including a death sentence—in which a fine is a component, the court may, when pronouncing judgments, require the entirety or any portion of the amount recovered to be applied:

- a) Paying for costs legitimately incurred during the prosecution;
- b) When compensation is, in the court's opinion, recoverable by the party in question in a civil court, in the payment to any person of restitution for any loss or injury caused by the offence;
- c) When someone is accused of a crime that resulted in the death of another person. A person who is eligible to receive compensation from a person who has been compensated for such a death may be required by the Fatal Accident Act of 1855 to pay that individual compensation.

A magistrate has the authority under section 358 to order or compel a person to pay compensation of up to Rs. 1000 to the person who caused police personnel to make the wrong arrest of that person. Similar to this, section 359 of the CR.P.C. Mandates the payment of compensation in non-cognizable circumstances.

It is evident that only limited action is permitted under section 357 of the Criminal Procedure Code when compensating a crime victim. And it has been demonstrated by a number of constraints and limits. The ability of the perpetrator to pay the compensation sum is one

constraint listed in the section; this ability to pay is a barrier to the victim receiving recompense.

Sec. 357 A of the CrPC was modified in 2008 by the state government at the Supreme Court's order for the benefit of V.C.S. The major goal of the 2008 modification was to enlarge the definition of victim as stated in section 2(wa) of the CRC. The amendment allows for various compensating remedies. In light of the 2008 amendment, all of the Indian states implemented victim compensation programmes to support victims and provide them with relief. The Delhi government has issued an order awarding 200 crores to victims of various types of offences like rape and acid assault in lieu of the aforementioned modifications and the initiatives taken by the various states. These victim compensation plans were successfully addressed and put into action, as seen by the numerous case statutes that emerged. *Ankush Shivaji Gaikwad v. State of Maharashtra* and other cases, *Delhi Domestic Working Women's Forum v. Union of India* and others. When the victim received compensating relief from the court after it implemented a government decree. Due to the circumstance, the 2008 amendment also upholds Section 372 of the CRC and adds certain rights to be granted to those who are the victims of such offences. "1. Acquittal of the criminated, 2. Condemnation for a petty offence or little legal in nature, and; 3.

Not pleased with the amount of compensation paid before" are just a few of the rights that are included.

Victim compensation programmed implementation in respect to CRPC.

The Supreme Court has instructed various states to implement the victim compensation programmed in order to protect victims from psychological harm and their dependents from offences under Section 357A of the Criminal Procedure Code. Additionally, there are other components to Sec. 357A that provide for compensation for the victims, and they are as follows:-

- According to Section 357 A (1), those who have experienced misfortune or any form of prejudice from society should be given the chance to recover under the development of victim compensation schemes as implemented by the states. Compensation may be paid to the victim or his legal heirs.

The conditions for victim compensation that are outlined in section 357A (2) are based on subsection (1) itself. When required by a court's judgments, the District Legal Service Authority, often known as DALSA, has the authority to determine how much compensation should be given to the victim. The District legal uthority has been given this ability due to its

knowledge of the nature and impact on the victim needed to determine the appropriate amount of compensation.

The District or Trial courts are now authorized, as they were not before the introduction of sec. 357A, to provide the victims with the requisite compensation. According to subsection (30 of section 357A), the District legal authority, acting at the direction of the District court, has the authority to award compensation in cases where the victim is freed from custody or needs treatment to recover from the incident because it might negatively impact his future. Additionally, the D.A.L.S.A. Should provide enough compensation so that the person can move past the incident.

Additionally, under subsection (4) of section 357A, the rights of the victim and the legal successor or representative have been addressed. These rights include the right to compensation for any losses incurred by the victim prior to the identification of the offender and the beginning of the legal process. This section is in the victim's favor because it allows them to request compensation from the District legal authority even before any court proceedings begin. This section is crucial for giving the afflicted an immediate cure.

2. 1958's Probation of Offender Act

The probation of offender legislation has a provision addressing compensation claims in section 5(1). As stated in this section, if the court determines that a wrongdoer should be released pursuant to Section 3 or Section 4 of the Act, it may further order that the accused pay the victim an additional sum as the court deems appropriate in addition to the procedure's costs.

3. Damages under the 1988 Motor Vehicle Act

Under section 5 of the Motor Vehicle Act of 1988, parties who have suffered death or damage in a vehicle accident, or those parties' representatives, may seek restitution from the perpetrator. Trial courts have the authority to hear certain cases.

4. Compensation as a form of relief as a developing judicial tendency

The judiciary is absolutely essential in resolving victim compensation claims. High courts have played a significant role in providing victims of loss or injury with compensating justice. Some famous rulings that guarantee victims' compensation and demonstrate the judiciary's interest in the subject.

In *Rudal Shah v. State of Bihar*⁹, it was noted that a person who has suffered under Section 358 of the C.R.P.C. may be eligible for further compensation. The spouse, partner, parents,

and children of the deceased are all paid for the loss or harm brought on by the crime.

In *Sarwan Singh v. State of Punjab*, the Supreme Court 10. Before granting an order of compensation to a crime victim, the court should consider a number of factors, including the offender's financial capacity, the type of offence, the extent of damage and injury, and the impact of the offence on the victim's and family's quality of life. These factors include the victims and family's physical, psychological, and emotional suffering. The amount of compensation should be based on the circumstances, the facts, and the reasoning; the court should keep in mind when making an award. The accused should be given a reasonable amount of time to pay the compensation, and the criminal should be permitted to pay it in installments.

According to the ruling in the case SAHELI 11 (a group of women activists), the Delhi Apex Court ordered the Delhi Administration to pay the mother of a nine-year-old boy Rs. 75,000 as exemplary compensation after the boy passed away as a result of being beaten by a police officer while being interrogated for evidence.

Modern Update Through the amendment of the CR.P.C. in 2008, Section 375(A) was added. Section 357(A) states that:

(1) The central government, with the assistance of the state governments, should prepare a victim compensation scheme to provide money to the victims who have suffered death, loss, damage, or injury in order to restore their status of life. This clause would aid in the payment of victims' compensation. These rules would improve the victim protocol provision included in the SAARC protocol.

VII. RECOMMENDATIONS & SUGGESTIONS

It is clear from a comparative analysis that victim compensation has undergone a significant transformation over the past few decades. Below are some suggestions for enhancing India's standing when compared to other nations because we can see that they are more developed.

1. India needs comprehensive victim compensation legislation.
2. As the upcoming ideas in America, such as the victim contribution statement, which helps to increase the victim contribution. To strengthen the engagement of victims in the legal system, such ideas are necessary in India.
3. The victim impact statement would include:
 - a. The physical, psychological, or emotional effects of the incident.

- b. It would compensate the family for the loss of caregivers and guardians, among other things.
 - c. The requirement for restoration.
4. India should enact additional important measures to make compensation a legal requirement, as well as a particular provision requiring judges to note their reasons for withholding pay.
5. State-created funds for victim aid might be viewed as ready-to-use relief that can help to further stop victimization.
6. India should follow the American model and create a system that supports "victim assistance efforts" or "state victim compensation programmers" by providing subsidies and other benefits.

VIII. CONCLUSION

Victim restitution is now an essential part of delivering justice to victims. In addition to the traditional prison system, victims' compensation has lessened the accused's desire to cooperate with the legal system. However, there are many defects and problems in this field in India, despite some recent improvements in this direction, demanding a concerted effort from all the organisations. Clarity and accountability in every part of the criminal justice system are necessary for the proper application of current law after concerted labour efforts.
