

# ANALYTICAL STUDY ON COMPENSATION TO THE VICTIMS OF CRIME

## Abstract-

It is the main motto of Indian Judicial System to deliver fair and appropriate justice to the victims or aggrieved ones. However, other than giving fair amount of punishment to the offenders it is the duty of the court to compensate the victims through proper sources. By the passage of time Indian judiciary has provided with central schemes and state schemes to provide compensation to the victims. This article will give a brief description about certain such schemes and provisions given under certain laws.

## Introduction

The term 'victim' when all is said and done alludes to each one of the individuals who experience damage, misfortune or hardship because of any reason and one of such causes might be crime. In this way, victimology might be characterized as an investigation of individuals who are harmed because of any reason. Such damage or mischief might be physical, mental, and enthusiastic or money related. It in this way pursues 'victim of crime' an individual who endured any damage as a result of any wrongdoing or crime. The criminal equity framework is essentially intended to change the exploitation of these unfortunate casualties and to address the issues encompassing him. Anyway getting equity in Indian criminal equity framework was never a luxurious situation for the casualties of offense. The most recent couple of decades anyway had seen noteworthy changes in the methodology of lawful frameworks broadly just as globally with changes in statutory laws as well as even in legal methodology towards the victims.

Victim Compensation is one of the real angles in reparation of the damage or damage caused to the injured individual because of the commission of the crime. Financial help with single direction or the different dependably benefits the exploited people in the relief of their sufferings.

## A. VICTIMS OF CRIME-

The expression 'victim of crime' refers to any person, group or entity who suffered injury, harm or loss due to illegal activity of someone. The harm or injury can be of any type, it can be physical, psychological or financial. Section 2 (wa) of Code of Criminal Procedure 1973 defines the term 'victim' as a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression 'victim' includes his or her guardian or legal heir.

## B. RIGHTS OF VICTIMS OF CRIME-

- i. **Right to Access to justice and fair treatment-** It includes fair and humanitarian treatment with dignity, quick redress, fair and low-cost trail mechanism, acquainted rights, inclusion of mediation and arbitration etc.
- ii. **Right to restitution-** It incorporates reasonable and well-suited compensation to the people in question and their families or dependants, replacement of community facilities and reimbursement of the expenses of relocation wherever such harm results in dislocation of a community; medical expenses, costs etc.
- iii. **Right to compensation-** At the point when the pay isn't totally recouped from the guilty party or some other sources, it ought to be imbrused by the State.
- iv. **Right to Assistance-** Such help might be in type of essential material, therapeutic, mental or social help through legislative, deliberate, network based or indigenous methods; accessibility of wellbeing and social administrations and other applicable help; administrations of police, equity, wellbeing, social administration and other work force concerned, preparing of sharpen these administrations for helping victims.

## C. HISTORICAL BACKGROUND OF VICTIM COMPENSATION

The antiquated Indian History is an observer to the way that the victims of crime have adequate arrangements of compensation by method for remuneration to wounds. Writer of the book, "General Principle of Hindu Jurisprudence" Dr. Priyanath Sen<sup>1</sup> has watched

*"It is, in any case, wonderful that in as much as it was worried to be the obligation of the King to secure the property of his kin, if the King couldn't re-establish the stolen articles or recuperate their cost for the proprietor by catching the hoodlum, it was regarded to be his obligation to pay the cost to the proprietor out of his own treasury, and in his turn he could recoup the equivalent from the town officers who by reason of their carelessness, were responsible for the cheat's getaway."*

Reparation or remuneration as a type of discipline is observed to be perceived from antiquated time in India. In old Hindu law, amid Sutra period, granting of pay was treated as a regal right. The law of Manu requires the guilty party to pay remuneration and pay the costs of fix if there should arise an occurrence of wounds to the sufferer and fulfilment to the proprietor where

<sup>1</sup> Dr. Priyanath Sen: "General Principle of Hindu Jurisprudence", Page 335

merchandise were harmed. In all instances of cutting of an appendage, injuring or getting blood, the aggressor will pay the costs of an ideal fix or in his disappointment, both full harms and a fine. It demonstrates that the injured individual remuneration was never an outsider idea in the equity conveyance frameworks of the nation. The structure of the law in our present day lawful framework identifying with the injured individual pay are arrangements contained in the Criminal Procedure Code, 1973 and different decisions of the Hon'ble Supreme Court. The inquiry that emerges for thought is that regardless of having laws for unfortunate casualty remuneration are these laws being tastefully utilized by those on who lies the obligation of the execution of these laws and to give valuable impacts to it. Answer is in all respects rarely. The reasons are many.

Some increasingly unmistakable resemble the twelfth century refinement of English law of wrongs into common wrongs and criminal wrongs which prompts confusion that the region of pay is something only having a place with the area of common law and others more subtle like the obliviousness of the individuals who can offer impact to these donations. The present criminal equity framework depends on the suspicion that the cases of a casualty of wrongdoing are adequately fulfilled by the conviction of the culprit. It is a fact that in our present day ill-disposed legitimate framework between the state and the blamed, the unfortunate casualty isn't just dismissed yet is lost peacefully. The job of the unfortunate casualty is constrained to report the offense and remove in the court in the interest of arraignment party, which is the State. There's nothing more to it. The Malimath Committee thought about the present criminal equity framework that not just the unfortunate casualty's entitlement to remuneration was overlooked aside from as token arrangement under the Criminal Procedure Code yet additionally the privilege to take an interest as the prevailing partner in criminal procedures was detracted from him. He has no privilege to lead proof, he can't challenge the proof through questioning of observers nor would he be able to propel contentions to impact basic leadership.

#### D. LAW RELATING TO COMPENSATION OF VICTIMS OF CRIME IN INDIA-

- The arrangements identifying with compensation to victims of crime are contained in sections 357, 357(1), 357 (2), 357 (3), 357A, 358, 359 and 250 of the Code of Criminal Procedure, 1973.
- Constitution of India additionally accommodates certain protections to the victims of crime. Article 14 and 21 of the Constitution underpins the contention.

##### **Victim compensation under the Code of Criminal Procedure, 1973**

Victim compensation is an important aspect of victim restitution in criminal justice system. Supreme Court judgment recently in the case of *Ankur Shivaji Gaikwad vs. State of Maharashtra*<sup>2</sup>, has observed that a long line of judicial pronouncements of Supreme Court of India recognized a paradigm shift in the approach to victims of crime who are held entitled to reparation, restitution or compensation for loss or injury suffered by them.

It is in consonance with this shift in the approach towards victims for compensating them that an amendment was made in the Code of Criminal Procedure, 1973 whereby a new provision i.e. Section 357 A has been added which provides for the Victim Compensation Scheme. Earlier a provision for compensation to the victims of crime was section 357 Code of Criminal Procedure in which the mandate was a direction to the convict to pay compensation to the victims of crime, if the court on conviction of accused so directs. However in many cases as we see that the convicts are from very poor back ground or are reluctant to pay compensation considering their prolonged incarcerations, the victims seems to be remediless.

***Where conviction and fine are the part of the sentence-*** At the point when an accused is demonstrated blameworthy, and the court passes a request which contains a fine of any division, the court can request such fine or any piece of it to be paid to the victim of crime. The fine forced is used to repay the victim in the accompanying ways:

1. Compensating for the expenses incurred during litigation (357 1 a)-

This is the basic help which a victim of crime must get. Case costs in India are exceptionally self-assertive. The legal advisor charges weighty sum. Getting equity now and again adds to the weight of the injured individual itself. Rather than getting equity, the injured individual is caught in the honeycomb of equity conveyance framework.

The court knows this reality and therefore, remunerate injured individual by giving them the costs caused amid case.

2. Compensation for loss or injury to be recovered by the civil court-

<sup>2</sup> S.L.P. (Cri.) No. 6287 of 2011

On the off chance that the court is of the view that, the remuneration looked for is past the ward of the court, the court itself arranges the proper court to investigate the issue.

In the instalment to any individual of remuneration for any misfortune or damage brought about by the offense, when pay is, in the sentiment of the Court, recoverable by such individual in a Civil Court.

### 3. Compensation in the event of death -

One may scrutinize the way that, who is the victim where passing has been caused? As the unfortunate casualty is as of now dead, who ought to be made up for the crime?

It is the group of the person in question. Think about the psychological injury they may have experienced. Restorative costs brought about, costs amid last ceremonies. Imagine a scenario in which the injured individual who kicked the bucket was the sole bread worker of the family.

The Court is very much aware of such circumstance. Consequently, the lawmaking body and the legal executive bound their hands to do finish equity.

Victims are qualified for recuperate harms from the individual condemned for the misfortune coming about to them from such passing. At the point when any individual is sentenced for any offense for having caused the lives of someone else or of having abetted the commission of such a crime.

### 4. Compensation of victims of crime in offences like theft, cheating, criminal breach of trust, etc-

In instances of crime, such as theft, cheating, criminal breach of trust, criminal misappropriation, the Court either goes after for recuperation of merchandise and for the situation where recuperation is absurd court orders for remuneration at the cost of such products.

**Compensation where fine is not a part of the sentence-** The charged individual in such case might be requested by the court to pay a specific aggregate as pay to the casualty of wrongdoing who endured misfortune or damage. Indian legitimate framework is injured individual cordial. Victim's rights are kept at the highest point of the need list.

At the point when a Court forces a sentence, of which fine does not frame a section, the Court may, when condemning, request the denounced individual to pay, by method for remuneration, such sum as might be indicated in the request to the individual who has endured any misfortune or damage by reason of the represent which the blamed individual has been so condemned.

#### **VICTIM COMPENSATION SCHEME-**

In 2009, the focal government offered bearings to each state to set up a plan which must be in concurrence with the middle's plan for injured individual pay. The main role of the plan is to give assets to the motivation behind remuneration to the person in question or his wards who have endured misfortune or damage because of the wrongdoing and who require recovery.

- **Quantum of remuneration under the plan**

It is the court which arranges that the unfortunate casualty who endured misfortune needs to get redressed. Under the plan, at whatever point a suggestion is made by the Court for remuneration, the District Legal Service Authority or the State Legal Service Authority, all things considered, chooses the quantum of pay to be granted.

- **Compensation in cases where the accused is not found guilty or the culprits are not traced**

Where the cases end in vindication or are released, and the injured individual must be restored, the court may make a suggestion for pay.

Where the guilty party isn't followed or distinguished, however the victim is recognized, and where no preliminary happens, the person in question or his wards may make an application to the State or the District Legal Services Authority for an honour of remuneration.

- **Who is to provide compensation in the above case-**

The State or the District Legal Services Authority will, after due enquiry-grant satisfactory remuneration by finishing the request inside two months.

Likewise, it is the obligation of the State or the area lawful administration specialist to give a quick emergency treatment office or health advantages to the unfortunate casualty free of expense on the testament of the police.

- **Treatment of victim of crime-**

All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under the following of the Indian Penal Code,

1. 376 (Rape)
2. 376A (intercourse by a man with his wife during separation)

3. 376 B (intercourse by a public servant with a woman in his custody), 376 C (Intercourse by superintendent of jail or a remand home), 376 D (intercourse by any member of the staff of a hospital with any woman in that hospital) of the Indian Penal Code.
4. 376 C (Intercourse by superintendent of jail or a remand home),
5. 376 D (intercourse by any member of the staff of a hospital with any woman in that hospital) of the Indian Penal Code.

- **What to do in case of inadequate compensation-**

In the event that the preliminary Court, at the finish of the conference, is fulfilled, that the remuneration granted under area 357 isn't satisfactory for such recovery, or where the cases end in quittance or release and the unfortunate casualty must be restored, it might make a proposal for pay.

- **When is the compensation to be provided-**

Along with the duty of the offender, it is the duty of the state too, to compensate the victim. Compensation to the victim of crime can be provided:

At the conclusion of the trial. That is on the orders of the court.

When inadequate compensation is granted by the lower court to the victim of crime, the Appellate Court might increase the compensation.

Where accused is not traceable, it becomes the duty of the state to compensate the victim of the crime.

**CENTRAL VICTIM COMPENSATION FUND SCHEME-**

The Central government in 2015 defined the CVCF plan to remunerate the decided. Each state has their own rules which choose the methodology.

Following are the key points of the scheme-

- To help and enhance the current Victim Compensation Schemes told by States/UT Administrations.
- To lessen divergence in quantum of pay sum informed by various States/UTs for casualties of comparable violations.
- To energize States/UTs to viably actualize the Victim Compensation Schemes (VCS) told by them under the arrangements of section 357A of Cr.P.C. also, proceed with monetary help to casualties of different wrongdoings particularly sexual offenses including assault, corrosive assaults, wrongdoing against kids, human dealing and so forth.

**CONCLUSION-**

There are arrangements for remuneration to the victim of crime in Cr.PC.

The remuneration is to be given by Legal Service Authorities on the proposal of Courts.

The remuneration can be break that is amid examination or preliminary or can be last at the finish of the preliminary.

The remuneration is payable as indicated by the 'Victim Compensation Schemes' of particular States.

The courts need to give reasons in the event that it isn't prescribing pay to the casualties of wrongdoing at the finish of the preliminary.

**REFERENCE-**

Report of Committee on Reforms of Criminal Justice System, Ministry of Home Affairs, Government of India (2003) Vol.1.

1. Dr. Priyanath Sen: "General Principles of Hindu Jurisprudence"
2. S.L.P. (CrI.) No. 6287 of 2011
3. RIGHT TO COMPENSATION OF VICTIMS OF CRIME IN INDIA: NEED FOR A COMPREHENSIVE LEGISLATION, By Anusree A, <http://ijldai.thelawbrigade.com/wp-content/uploads/2016/01/AnusreeA.pdf>

