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# **ROLE OF JUDICIARY IN PROTECTING VICTIMS' RIGHTS IN INDIA**

Authored by-Sushmita Pankaj

## **INTRODUCTION**

The role of victim in the criminal justice system is very significant but his/her welfare is not given due regard by the state instrumentality. Thus, the role of High Courts or the Supreme Court in our country in affirming and establishing their rights is very important. The victim is almost a forgotten entity in the criminal system rather the irony is that the victim sets the wheel of justice moving by giving information to the state instrumentalities without which the entire system could collapse. But still, the role of victim in the overall process is insignificant.

The term "victim" as defined by UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power means "*persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.*" Within the Indian legal framework, the term victim is defined under Section 2(wa) of the CrPC, 1973 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. Victimization can be defined in a layman's term as the process of being victimized or becoming a victim.

The primary goal of a criminal justice system is undoubtedly the protection of individual life, liberty, and property. The jurisprudence of our criminal system traces its roots in the reformatory theory of punishment which aims to achieve societal balance by rehabilitating the criminals. During the unending process of trial in our country, the sufferings of victims are entirely overlooked by sympathy for the accused. The victims of crime are integral to the Criminal Justice System in India. A victim of crime is one who triggers the criminal process. However, there is no systematic and uniform body of legal provisions entailing the status, rights and the victims in the legal system nor

there is a clear body of guidelines or legal provisions guiding the police, prosecution, judicial officers and health professionals to deal with and address their grievances in keeping with the remarkable developments taking place in the realm of justice to crime victim. The criminal justice system does not consider it important enough to give the victim a role in the prosecution of crime committed against him or her. The Criminal Law (Amendment) Act, 2008 granted some rights to crime victims which uplift the status of victim under Indian Criminal Justice System but still there is a scope to build the laws relating to the rights of victims.

But of late, it has been realized by the courts that the ultimate wrong has been done to the victim and his welfare is of the same importance as that of the accused. The attitude has begun to change. Many countries around the world have recognized the need to provide rehabilitation and legal assistance to help them recover from the effects of crime.

The Indian judiciary has played an important role in protecting the rights of victims' through its judgments and directions. The Indian criminal justice system allows the accused to enjoy various rights, but the victim has been neglected and his position is relegated just to that of a witness. Observing this discrepancy, the judiciary started showing concern towards the victim's rights during 1980s. Highlighting the apathy shown to the victims Krishna Iyer J. in *RATAN SINGH V. STATE OF PUNJAB*<sup>1</sup>, has rightly held "It is a weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of law. In fact, the victim reparation is still the vanishing point of our criminal law. This is the deficiency in the system, which must be rectified by the legislature." Krishna Iyer J reiterated again in the case *Maru Ram v. Union of India & other*,<sup>2</sup> that the courts shall not ignore the suffering of the victims of the crimes, while sentencing the offenders. Again in *State of Gujarat v. Hon'ble High Court of Gujarat*<sup>3</sup>, the Court observed that, while making efforts to protect the rights of the convict, the courts cannot forget the poor victim and his family for the loss they suffered in case of his death or becomes incapacitated to earn livelihood because of crime committed by the offender. These two cases are considered to be the beginning of new trend, where the judiciary started showing some concern for victims and passing the judgments protecting the victim's rights.

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<sup>1</sup> (1974) 4 SCC 719.

<sup>2</sup> AIR 1980 SC 2147.

<sup>3</sup> (1998) 7 SCC 392.

## **I. Concept Of Victim, Victimology And Victimization**

The word “victim” has its roots in many ancient languages that covered a great distance from north-western Europe to the southern tip of Asia and yet it had a similar linguistic pattern: victima in Latin, vinakti in Sanskrit.<sup>4</sup> Victim’s plight stems from the fact that crime is no longer regarded as a conflict between two individuals, but as a conflict between, the offender and society. It is viewed that crime does not give rise to any obligation to the victim but is a debt to society, and once the criminal is punished, the debt is paid. Hence, they have neither a place nor a role to play in criminal justice system. The criminal justice system is more considerate towards the offender, ignoring the victim completely. The immeasurable suffering of victim is now replaced with the sympathetic approach towards the offender. As a result, the victim has become the forgotten man in the justice system.<sup>5</sup> Presently the criminal law is more offenders oriented ignoring the victim.

However, in twentieth century, at the end of Second World War some criminologists in order to obtain a better understanding of crime, its origin and implication, took the task of understanding the importance of examining the criminal-victim relationship. Their efforts yielded great results with United Nations passing a Charter for victim's rights and on similar lines the European conventions on the compensation to victims of violent crime'. Subsequently, the various states in Europe and America came up with legislations for victims' compensation in their criminal justice system. As a result, victim's movement regained a greater momentum in the whole world, however with different approaches and shapes.

### **Who Are Victims**

Formerly, the term ‘victim’ was as likely to be associated with general misfortune as it was with crime. This point is reinforced by the New Shorter Oxford English Dictionary, wherein the definition starts by referring to ‘a person killed or tortured by another’, but then continues: ‘a person subjected to cruelty, oppression, or other harsh, or unfair treatment, or suffering death, injury, ruin, etc., as a result of an event, circumstance or oppressive or adverse impersonal agency.’

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<sup>4</sup> John P. J. Dussich, VICTIMOLOGY PAST, PRESENT AND FUTURE, available at: [http:// docplayer.net/6398151-Victimology-past-present-and-future.html](http://docplayer.net/6398151-Victimology-past-present-and-future.html)

<sup>5</sup> Deepak Bade, VICTIMOLOGY AND COMPENSATORY JURISPRUDENCE, available at: [https://www.academia.edu/17569251/VICTIMOLOGY\\_AND\\_COMPENSATORY\\_JURISPRUDENCE](https://www.academia.edu/17569251/VICTIMOLOGY_AND_COMPENSATORY_JURISPRUDENCE)

## **Definition Of Victimology**

The word “victimology” was coined in 1947 by a French lawyer, Benjamin Mendelsohn from a Latin word *victima* which referred to a person or animal sacrificed in a religious ceremony and Greek word *logos*,<sup>6</sup> which means science of victims. Victimology is essentially an investigation of crime from the perspective of the victim, of the persons experiencing damage or devastation by activity of someone else or a gathering of persons.

Schultz (1970) defined Victimology as: “Victimology is the study of the degree and type of participation of the victim in the genesis or development of the offences and an evaluation of what are just and proper for the victim’s welfare”. Drapkin and Viano (1974) defined Victimology as: “Victimology is the branch of criminology which primarily studies the victims of crime and everything that is connected with such victims”.

However, the definitions failed to take into consideration the growing prominence of crime victims presently. Therefore the study of victimology should include the definition of victim, analyzing the magnitude of victim’s problem, to explain the causes of victimization, victim’s right to assistance, compensation and restitution and in the end to suggest a system to reduce victimization.

## **Classification Of Victimization**

There are various classes of victimization.

### **(a) Primary victimization**

Primary victimization is personal victimization. In this, an actual person or group of people become first hand victims of a crime. This can be done because of a personal vendetta against a single person or a specific group of people, such as someone getting revenge for a significant other cheating with a person.<sup>7</sup> Certain crimes involve physical effects, which are prone to include some level of torment and enduring, and may involve loss of ability. Similarly certain crimes cause mental agony, in the forms of anxiety, depression and fear and also affect the social relationships of victim with his family, colleagues and friends.

<sup>6</sup> VICTIM : AN INTRODUCTION, available at: [http://shodhganga.inflibnet.ac.in/bitstream/10603/7936/7/07\\_chapter%201.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/7936/7/07_chapter%201.pdf)

<sup>7</sup> Meadows, R.J. (2007) Understanding Violence and Victimization 4th Ed. Upper

### **(b) Secondary victimization**

Secondary victimization is also known as post-crime victimization. It refers the victimization that takes place indirectly from a criminal act. It relates to further victimization following on from the original victimization. For example, victim blaming, inappropriate treatment by the medical personnel or other agencies with which the victim has contact may further add to the victim's suffering.

### **(c) Re-victimization**

Repeat victimization takes place when the victim experiences the same crime by the same offender. This normally results when the victims reside in the home or locality where the potential group of offenders lives. For example, the act of domestic violence and of sexual offence will be repeated because victims continue live with the offenders.

### **(d) Self-victimization**

In this classification victim himself submits to such acts which results in his own victimization. For example having wrong habits, moving in a wrong company, etc.

## **II. Victim Rights And The Indian Criminal Justice System**

Across the globe in different countries, victims of crime are given ample protection, assistance, restitution and compensation by appropriate laws and acts, but in India the victims have no significant role in criminal justice system. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted in 1985, has recognised the importance of need to set the standards and norms in international law for the protection of crime victims. It has recognised four major rights of victims: access to justice and fair treatment,<sup>8</sup> restitution,<sup>9</sup> compensation<sup>10</sup> and assistance.<sup>11</sup>

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<sup>8</sup>Clauses 4 & 5

<sup>9</sup>Clause 8

<sup>10</sup> Clause 12

<sup>11</sup> Clause 14 Part B

## **Rights Of Victims**

The victim's rights can be in general be classified in to following categories: 1. Right to be treated with dignity and respect. 2. Right to notification. 3. Right to be present. 4. Right to be heard. 5. Right to reasonable protection from intimidation and harm. 6. Right to restitution. 7. Right to information. 8. Right to apply for compensation (for violent crime victims). 9. Right to speedy proceedings. 10. Rights to privacy

### **Victims' Rights Underconstitution Of India**

The Indian Constitution has few provisions which provide for victim protection, their rights and recognises the principle of victim compensation. Article 14 and Article 21, which contain important fundamental rights are to be read with directive principles of state polices contained in Articles 39A, 41, 46, and 51C. The first part of Article 14<sup>12</sup> is negative, prohibiting the state not to deny equality before law to any person. The second part of the Article has a positive content indicating an obligation on the state to extend equal protection of laws to every person. Article 21<sup>13</sup> ensures life with dignity, right to legal aid, fair trial, as a part of inalienable right to life and personal liberty. Article 41, which has pertinence to victimology in a wider perspective, mandates inter alia, that the state might make an effective provision for "securing public assistance in cases of disablement and in other cases of undeserved want."<sup>14</sup> Surely, the victims and other victimized people swim into the haven of Article 41.<sup>15</sup> If we empathetically interpreted and creatively imagined, here we find the constitutional beginnings of victimology. Further, the guarantee against unjustified deprivation of life and liberty under Article 21 has in its elements obligating the state to compensate victims of criminal violence.<sup>16</sup>

### **Victim's Rights under Indian Penal Code**

The Criminal Law Amendment Act, 2013 came into force on 3rd April, 2013. Through the Criminal Law (Amendment) Act, 2013 suitable changes were made to IPC particularly the

<sup>12</sup> Art 14: Equality before law: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India

<sup>13</sup>Art 21: Protection of life and personal liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law

<sup>14</sup>Murugesan Srinivasan and Jane Eyre Mathew, Victims and the Criminal Justice System in India: Need for a Paradigm Shift in the Justice System, TEMIDA, Jun 2007, at pp 51-62

<sup>15</sup> Ibid.

<sup>16</sup>Basu, D.D, Constitutional Law of India (Nagpur: Wadhwa& Co.,2003)

provisions relating to sexual offences including rape. The Act further amended some of the provisions of Code of Criminal Procedure, 1973, Indian evidence Act, 1872, and the Protection of Children from Sexual Offences Act, 2012. The major boost to the protection of victims was received by the Criminal Law Amendment Act, 2013 which for the first time, has created many new offences for protection of woman against acid attacks (Sec. 326A and 326B), sexual harassment (Sec. 354A), voyeurism (Sec. 354 C) and stalking (Sec. 354 D) and inter alia, enlarged the definition of rape (Sec. 375) in IPC. It expanded the meaning of rape to include penetration of the mouth, anus, urethra or vagina with the penis or any other object without consent.

## **Code Of Criminal Procedure, 1973**

Before analyzing the provisions of Cr.P.C. relating to victim, first it is appropriate to appreciate the meaning of victim as defined under the Code. The Code 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.<sup>17</sup> The Code of Criminal Procedure Code (Amendment Act), 2008 brought sweeping changes in criminal law to help the cause of victims. The Act amends the definition of victim by inserting a new clause (wa) under section 2 after (w) to include the victim’s guardian and legal heir.<sup>18</sup> This amendment helps the relatives particularly those who are dependents on the victims to get the compensation for the loss of victim either in person or in earnings. Further, they can make a claim opportunity to be heard or participate in the criminal justice process. A new sub section (8) has been added to section 24 which permits the victim to appoint a lawyer of his own choice to assist the prosecution.<sup>19</sup> However, the Act is silent about providing the financial assistance to the victim in this regard. Many times the victims of the offences of rape feel that the persons particularly the men who hear their cases are not sensitive and often gender biased. To answer this anomaly the Act added a proviso to section 26 and provides that the offences of rapes shall be tried by courts presided by the women.<sup>20</sup> Further, the Act requires during investigation relating the rape cases, the statement of

<sup>17</sup>Sec.2(wa) inserted by Code of Criminal Procedure (Amendment) Act,2008 .

<sup>18</sup> Inserted by Act 5 of 2009, S.2 (w.e.f. 31-12-2009).

<sup>19</sup> 7 In section 24 of the principal Act, in sub-section (8), the following proviso shall be inserted, namely:- "Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this subsection."

<sup>20</sup> In section 26 of the principal Act, in clause (a), the following proviso shall be inserted, namely: - "Provided that any offence under section 376 and sections 376A to 376D of the Indian Penal Code shall be tried as far as practicable by a Court presided over by a woman."

victim of rape shall be recorded at the place of her choice and by a woman police officer in presence her parents, or relatives and social worker of that locality.<sup>21</sup> In order to protect the identity of the victim rapes so as to protect them further humiliation, the Act requires all the trials of rapes cases shall be conducted in camera by a woman judicial officer.<sup>22</sup>

The most important change the Act brought was in relation to victim compensation. The much awaited compensation scheme was statutorily provided for by the present amendment. A new section 357A has been inserted which requires all the states to frame a victim compensation scheme in consultation with central government.<sup>23</sup> On recommendation by the court for compensation, the district legal service authority or state legal service authority must decide on the quantum of compensation. There is also a provision for relief after inquiry by the state or district legal service authority in those cases where no trial takes place because the offender cannot be traced or identified. The amendment in 2008 has been further supplemented by Criminal Law Amendment Act 2013 by adding s.357 B, s.357 C have been inserted in Cr.P.C.

## Indian Evidence Act

Under S.151<sup>24</sup> and 152<sup>25</sup> of Indian Evidence Act, 1872, victims are protected from being asked indecent, scandalous, offensive questions, and questions intended to annoy or insult them. Otherwise, there is no other provision for protection of victims, as against threats, intimidation or any inducement whereby they are prevented from telling the truth. Often, when an accused is released on bail, one of the terms and conditions imposed by the Courts on the accused will be that he shall not tamper the evidence, or approach the witnesses. This, again, is not a provision for protection of the witnesses; it is only to ensure that the trial is not rendered in fructuous. Judges also hold in-camera trials to ensure deposition by witnesses without any fear or embarrassment. In recent times the Supreme Court has permitted recording of evidence by video-conferencing. All

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<sup>21</sup> In section 157 of the principal Act, in sub-section (1), after the proviso, the following proviso is inserted, namely:—“Provided further that in relation to an offence of rape, the recording of statement of the victim is to be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality.”

<sup>22</sup> In section 327 of the principle Act,— (a) in sub-section (2), after the proviso, the following proviso is inserted, namely:—“Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate.”

<sup>23</sup> After section 357 of the principal Act, the following section is inserted, namely:—357A.(1) Every State Government in co-ordination with the Central Government is to be prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

<sup>24</sup>Section 151: The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

<sup>25</sup>Section 152: he Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

these are inadequate without a specific legal provision guaranteeing protective measures to victims before, during and also after the trial.

### **III. Role Of Judiciary In Protecting Victim's Rights**

The Indian judiciary has played an important role in protecting the rights of victims' through its judgments and directions. The Indian criminal justice system allows the accused to enjoy various rights, but the victim has been neglected and his position is relegated just to that of a witness. Observing this discrepancy, the judiciary started showing concern towards the victim's rights during 1980s. Highlighting the apathy shown to the victims Krishna Iyer J in *Ratan Singh v. State of Punjab*<sup>26</sup>, has rightly held "It is a weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of law. In fact, the victim reparation is still the vanishing point of our criminal law. This is the deficiency in the system, which must be rectified by the legislature." Krishna Iyer J reiterated again in the case *Maru Ram v. Union of India & other*,<sup>27</sup> that the courts shall not ignore the suffering of the victims of the crimes, while sentencing the offenders.

The Supreme Court in *Bhagwant Singh v. Commissioner of Police*<sup>28</sup>, ruled that where the Magistrate to whom the investigation report is submitted under section 173 Cr.P.C. decides not to take the cognizance of the case for sufficient grounds, must give notice to the informant i.e. the victim and provide him an opportunity to be heard before the decision. These decisions reflect that the judiciary has recognized the important right of victim, the right to be heard in the pre-trial stage, when the magistrate has to decide whether to take cognizance of the case or not including framing of the charges.

The Andhra Pradesh High Court in *M. Balakrishna Reddy v. Home Department*<sup>29</sup>, has held that a third party who has suffered as a result of the offence shall have the right to prosecute if the State withdraws the prosecution. Thus the court implicitly recognized the right of the victim to oppose applications filed by the State for withdrawal from prosecution. The Supreme Court also recognized the victim's right to resist the grant of bail to the accused by way of an application under section 439(2) of Cr.P.C..<sup>30</sup>

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<sup>26</sup> (1974) 4 SCC 719.

<sup>27</sup> AIR 1980 SC 2147

<sup>28</sup> AIR 1985 SC 1285.

<sup>29</sup> 1999 Cr LJ 3566 (AP)

<sup>30</sup> Section 439(2): A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.

## **IV. Evolution Of Compensation Jurisprudence And Judicial Response To Victims Of Crimes**

The Indian judiciary took a new initiative in the field of victim compensation and evolved an effective constitutional remedy for the violation for fundamental rights through the Articles 32 and 226. In *Rudul Shah v. State of Bihar*<sup>31</sup>, Chandrachud C.J., for the first time invoked the extraordinary power vested in the Supreme Court under Article 32 to award compensation to the petitioner for illegal detention in violation of his fundamental right to life and personal liberty under Article 21.

In *Rudal shah v. State of Bihar*,<sup>32</sup> where a person was wrongfully kept in prison for 14 years. The petitioner inter alia also sought compensation for illegal incarceration. The Supreme Court for the first time held that its power under Article 32 of the Constitution of India extends to award compensation for the deprivation of fundamental rights. The Court observed: “Article 21 which guarantees the right to life and liberty will be denuded of its significant content if the power of this court were limited to passing orders of release from illegal detention. One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 could be secured is to mulct its violation in the payment of monetary compensation”.

In the subsequent case of *Sebastian Hongray v. Union of India*,<sup>33</sup> the Supreme Court awarded compensation for torture, agony and harassment of two ladies whose husbands had been missing after they were taken to an army camp by army officials in Manipur, and for the failure of the detaining authority to produce the missing persons.

In *Nilabati Behera v. State of Bihar*,<sup>34</sup> is an illustrative of the new trend of using constitutional jurisdiction to do justice to the victims of crime. The Court held that a claim in public law for compensation for violation of human rights and abuse of power is an acknowledged remedy for the enforcement and protection of such rights. The court further laid down that the concept of sovereign immunity is not applicable to the case of violation of right to life and personal liberty guaranteed by Article 21 of the Constitution.

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<sup>31</sup> (1983) 4 S.C.C. 141

<sup>32</sup> AIR 1983 SC 1086

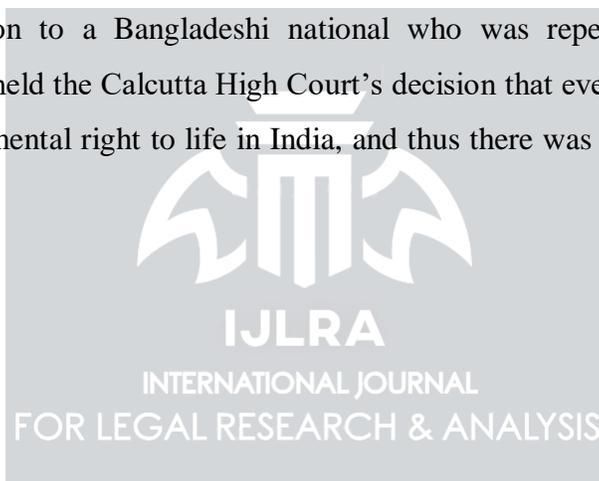
<sup>33</sup> A.I.R. 1984 S.C. 571.

<sup>34</sup> (1993) 2 SCC 746.

In the landmark case of *BodhisattwaGautam v. SubhraChakraborty*<sup>35</sup> the Supreme Court of India evolved creative principles of victimology and victim justice. Firstly, it held that the award of compensation, and interim relief is necessary so that undue delay in the delivering of justice to a victim of crime is not caused. Secondly, it held that the court had jurisdiction to award such compensation to the victim even when the accused is not convicted, due to the slow progress of the criminal proceedings. These principles evolved by the court were futuristic, perhaps a form of judicial activism and have been subsequently incorporated into Cr.P.C. through amendments in 2008 which was notified in 2009.

In *People's Union for Civil Liberties v. Union of India*,<sup>36</sup> the Supreme Court awarded a sum of Rs. One lakh to the families of each of the deceased killed in a 'fake encounter' by the police.

In *Chairman, Railway Board v. Chandrima Das*,<sup>37</sup> the Supreme Court ordered the payment of Rs. 10 lakhs as compensation to a Bangladeshi national who was repeatedly raped by Railway employees. The Court upheld the Calcutta High Court's decision that even as a foreign national she was entitled to the fundamental right to life in India, and thus there was a constitutional liability to pay compensation to her.



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<sup>35</sup> (1996) 1 S.C.C. 490.

<sup>36</sup> AIR 1997 SC 1203.

<sup>37</sup> (2000) 1 S.C.C. 465.

## V. CONCLUSION AND SUGGESTIONS

The Indian Judiciary has so far played a greater role in protecting the rights of victims in criminal justice system. It tried to fill the gaps where the law is inadequate or found wanting in protecting the interests of the victims. The important contribution of the apex court which we can't ignore is the compensatory jurisprudence that it evolved, to give compensation to victims of crime or dependents of victim. The evolution of compensatory jurisprudence is the classical example of judicial activism where the Court gives compensation for the violation of fundamental rights including the violation of basic human rights. No doubt that the courts in India have realised the role of victim in the criminal justice system and addressed his concern. But it has laid more thrust in awarding the compensation using its constitutional jurisdiction than recognising other rights like right of participation, right oppose bail to the accused etc. Though the compensation is an effective remedy as it gives much needed monetary relief to the victims, yet it cannot be a sole remedy for the victims who suffer more emotional injury than physical injuries. The brief review of the existing legal frame wok in relation to rights of victims of crime reveals that expect in the area of providing compensation, very little has been done either statutorily or through schemes to address the entire range of problems faced by victims of crime. There is a need to take the fresh look at the position in which the victim of a crime is placed in our criminal justice system. The Indian legal regime has failed to protect victim's rights in two fundamental ways: failing to enact suitable laws and failing to implement both the letter and spirit of the law.

It is suggested that the victims should guaranteed a right to get information about the developments of the case at every stage. Suitable amendment is to be made to Code of Criminal Procedure to insert a provision requiring the court to issue notice to the victim informing about the stages and dates of trial. It is suggested to provide legal aid and assistance to the victim in the same way the accused has been provided. The victim should be provided an opportunity to be heard before granting bail to the accused. The court while granting bail to the accused shall satisfy that the safety of the victim shall not be affected by the accused. Victim should be allowed to participate in the negotiations during plea bargaining cases. It is suggested to provide the victim an opportunity to be heard before prosecution decides to withdraw the prosecution. Further, the victims shall have right to challenge the withdrawal of prosecution at the trial stage itself.

The Criminal Law Amendment Act, 2008 requires all the states to create victim compensation fund in order to pay compensation to the victims. When accused fails to pay fine or compensation, he is required normally to undergo imprisonment for additional period. In reality there are many cases of default for variety of reasons. This results in denial of compensation to the victims. Therefore, it is suggested that in such cases the state has to pay the compensation to the victim and there after recover the same from the accused by attaching his property.

