



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshargarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshargarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **COMPENSATION TO VICTIM IN INDIA**

AURTHORED BY - ASHUTOSH SUMAN

Law Student, Chanakya National Law University, Patna

## **ABSTRACT**

The primary aim of the criminal justice system is to enforce public behavior and safeguard both individual rights and the larger community. Nevertheless, this system called “secondary victimization” often leads to discrimination and ill-treatment among crime victims. Modern experts in victimology suggest that victims should receive more than just punishing those responsible for their sufferings but also fair treatment, compensation equal to wrongdoers’ one, throughout which it has become a global focus on victim-centric methods. In India, provisions of various special laws such as the Protection of Women from Domestic Violence Act, 2005; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 etc. and the Criminal Procedure Code (CrPC) mainly lay down how compensation for victims is awarded. The CrPC sections 357 & 357A provide ways through which offenders or state-run government Victim Compensation Schemes may be ordered to pay compensation by courts. However, effective implementation is hampered by delays in addition to poor coordination between central and state governments. Comprehensive legislation is required to ensure timely and adequate relief for victims given that although the judiciary has played a role in awarding compensation in certain cases. The Probation of Offenders Act or Motor Vehicles Act, among others, provide avenues for this kind of compensation but are unclear and do not have guidelines. However, despite the efforts made towards improving victim compensation in India there are still gaps and challenges within the criminal justice system that prevent meaningful justice to victims from being achieved. To be effective, this requires comprehensive legislation, government coordination as well as judicial activism.

Keywords: Criminal justice system, Victimology, Victim-centric methods, Criminal Procedure Code, Victim Compensation Schemes, Judicial activism etc.

## INTRODUCTION

The primary objective of the criminal justice system in every country is to safeguard the rights of both individuals and the state against deliberate violations of societal norms by dishonest individuals. Achieving this goal requires ensuring that the accused are duly punished in accordance with the law while also taking all necessary precautions to safeguard their rights throughout the legal process. However, it is disheartening to observe that the victims of crime—often considered the "byproducts" of criminal acts—do not receive the same level of attention and care from the system. There is a prevailing assumption that the victim's needs are adequately addressed once the perpetrator is found guilty and punished, but this is not always the case. While victims typically play a significant role in the legal process, the extent to which their input is valued can vary depending on jurisdiction and case specifics. Although victims often initiate criminal proceedings by reporting incidents to the police, their involvement typically extends beyond serving as mere sources of information. However, their participation often ends once the police determine it to be unnecessary. In many cases, victims may feel marginalized or mistreated under the guise of gathering additional information, even if further action is not pursued.

His status becomes increasingly precarious later on in the trial phase, when he must testify as a prosecution witness, due to a number of circumstances such as regular postponements, apathy on the part of the judges, cross-examination by the prosecution and defence attorney, etc. Additionally, he must identify the suspects because he is the primary source of information, which increases the possibility that the accused or suspects may intimidate him. His security and life are in jeopardy. Consequently, a victim of the criminal justice system experiences not just dejection but also what is known as "secondary victimisation" at the hands of the system. According to contemporary victimologists, the traditional notion that justice for the victim is solely achieved through the offender's conviction is flawed and unjust. They assert that the state has a primary responsibility to protect its citizens' lives, well-being, and property, and when a crime occurs, the victim suffers due to the state's failure to fulfill this duty. Consequently, they argue that the state is obligated to ensure that victims receive equitable treatment and justice comparable to that of the perpetrator. The growing emphasis on victim-centered approaches in criminal justice systems worldwide is seen as a positive development. Additionally, the significant expansion of victim-related norms within international human rights law in recent years underscores the elevated status victims now hold in contemporary

society.

There exists a broad understanding regarding the protective and reparative rights of victims, notwithstanding disagreements regarding their participation rights during trials and sentencing procedures. In the contemporary criminal justice system, victim compensation rights have become so important that nearly all industrialised nations have extensive laws covering them.

### **VICTIM OF CRIME: AN ANALYSIS**

A "victim" is a person who has been directly or indirectly harmed financially, emotionally, or physically as a result of a criminal act. In cases where the victim is an institutionalized entity, such as a corporation, the harm may be inflicted by an agent or authorized representative of another entity. The expression "crime victims" refers to all individuals or groups that have been hurt in some way or another as a result of illegality and can be either physical, psychological or economic damages.

As per United Nations Declaration of Basic Principles of Justice for Victims from 1985, a victim is defined as "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 the member states including those laws proscribing criminal abuse of power."

Hence, anyone who has suffered harm due to a breach of criminal law is considered a victim. The injury in question may be physical, mental or economic or emotional damage. It seems that this definition applies to both natural and legal persons, individuals as well as collective entities and their dependents. A victim within this term is one who has sustained harm by helping out those victims in distress or to avoid being victims themselves.

The term "victim" has been defined under section 2 (wa) of the CrPC, 1973. As per Code of criminal procedure, victim means 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 includes guardians and legal heir of the victim.<sup>1</sup> This definition, introduced by the code of Criminal Procedure (Amendment) Act No 6 of 2008, heralds a step in the right direction. However, this definition of victim is too narrow when we compared it with definitions given in other International human right instruments and restricts the scope of application.

---

<sup>1</sup> § 2(wa), The Code of Criminal Procedure, 1973.

Furthermore, every crime must have at least two victims; first, society/public that suffers because criminal law commission and secondly actual individual(s) injured in his/her person, property or reputation.<sup>2</sup>

## **COMPENSATION UNDER CRIMINAL LAW**

### **Section 357: Order to Pay Compensation**

Section 357 of the Criminal Procedure Code (CrPC), 1973, entitled "Order to Pay Compensation," has a broad scope and applicability. It allows for orders of compensation to be issued by trial courts, sessions courts, appellate courts, and High Courts when exercising their revisional jurisdiction.<sup>3</sup> Additionally, this section confers upon the Supreme Court the authority to order compensation. However, Section 357 is subject to four specific instances.

This provision enables the complainant to seek reimbursement for expenses incurred during prosecution. Equally important, these competent tribunals can be used by persons who have suffered injury or damage from an offence in order to recover their losses.

Furthermore, Section 357 applies to instances involving property damage. In such scenarios, the court has the authority to compel payment to the owner who may have suffered loss or displacement due to offenses like theft, fraud, breach of trust, misappropriation, or handling of stolen property. The court can also direct the return of the property to its rightful owner. Importantly, Section 357 permits compensation even if no fine is specified as part of the penalty outlined in the corresponding subsection.<sup>4</sup>

### **Section 357A: Victim Compensation Scheme**

Section 357A under CrPC lays down an important provision that ensures well-being and support for victims of crimes. This section mandates state governments to set up Victim Compensation Schemes as necessary vehicles through which financial assistance can be provided to victims irrespective of trial outcomes.<sup>5</sup> Such schemes extend across a wide variety of offenses ranging from sexual assault, acid attack human trafficking and those causing grievous hurt or death.

---

<sup>2</sup> Mohammad farajiha Ghazvini, police protection to victims of crime, 1,(2002)

<sup>3</sup> § 357, The Code of Criminal Procedure, 1973.

<sup>4</sup> Dr KN Chandrasekharan pillai, R.V. Kelkers Criminal procedure,614, ( 5th ed, 2008, 2012 reprint).

<sup>5</sup> § 357A, The Code of Criminal Procedure, 1973.

The framework of compensation schemes alleviates the physical, emotional, and financial hardships experienced by victims. They pay specific amounts for damages resulting from criminal acts which include but not limited to medical bills, lost wages, and rehabilitation costs. It is important to note that accessibility is one of the key concerns as these schemes ensure that victims or their representatives can easily apply for compensation within stipulated time periods.

Designated authorities, often District Legal Services Authorities, evaluate compensation applications, taking into account scheme guidelines to determine appropriate amounts. What this means is that Victim Compensation Schemes do not discriminate against any victim in terms of their socio-economic characteristics.

Beside state level schemes Central Government may also bring about a Central Victim Compensation Scheme so as to render national assistance to victims. Therefore, Section 357A epitomizes the priority accorded by our legal system toward meeting the needs and well-being of crime's casualties through timely and adequate compensation plus support services aimed at aiding their recovery and reformation.

#### **Section 358: Compensation to person groundlessly arrested**

Section 358 of the Code of Criminal Procedure, 1973 is about compensation for persons who are arrested without any reason. This stipulation allows for an indemnity to be given to anybody who has been detained without a good cause.<sup>6</sup> To avail this section, a connection must exist between the petitioner and the arrestee that is based on information which does not warrant such action. In these cases, the magistrate can reward the affected party with no more than one thousand rupees.

#### **Section 359: Order to pay cost in non-cognizable cases**

Section 359 pertains to instances where a non-cognizable offense is committed and the individual lodging a complaint before the court is convicted. This provision grants appellate courts, High Courts, or Courts of Session exercising their revisional jurisdiction the authority to mandate the payment of costs. Furthermore, apart from any punishment imposed by the

---

<sup>6</sup> § 358, The Code of Criminal Procedure, 1973.

court, the accused may also be directed to reimburse the expenses incurred by the plaintiff on prosecution.<sup>7</sup>

### **Central Victim Compensation Scheme**

The Central Victim Compensation Scheme was launched by the Ministry of Home Affairs in August 2015 as an addition to the victim compensation programmes already in place. Notably, it increased the compensation amounts, particularly for victims of rape and sexual assault, and addressed the needs of women with partial or complete disabilities resulting from cross-border violence. Rajasthan, along with several other states, has adopted this scheme, offering uniform compensation amounts across all states. For instance, victims of acid attacks and rape are entitled to Rs. 3 lakhs, while Rs. 1 lakh is allocated for the rehabilitation of human trafficking victims. Furthermore, a clause was included that increased compensation for victims under the age of 14 by 50%. Most state governments have adjusted their schemes accordingly based on directives from the Union Government, with the exception of Arunachal Pradesh, Assam, Chhattisgarh, Himachal Pradesh, Karnataka, Tamil Nadu, and Uttar Pradesh.

### **COMPENSATION UNDER INDIAN CONSTITUTION**

Article 32 and 226 of the constitution grant the judiciary the authority to grant monetary damages as a restorative measure in situations when a citizen's right to life and personal liberty has been infringed by the police or other governmental institutions. This is an important re-reading of Article 21 because it says that the right to be released immediately from illegitimate detention also involves government responsibility to pay compensation.

In the case of *Rudal Shah v State of Bihar*<sup>8</sup>, the Supreme Court determined that such imprisonment following acquittal persisted for a duration of fourteen years. This time frame ran from June 1968—when the Court of Session dismissed the petitioner—until October 1982. In this case, the court realized how much this detention had violated him and described it as a duty that squarely lay on the executive arm.

For that reason, the apex court ordered the state to pay Rs.35,000 by way of interim

---

<sup>7</sup> § 359, The Code of Criminal Procedure, 1973.

<sup>8</sup> AIR 1983 SC 1086 .

compensation for unlawful detention of the petitioner. It is a remarkable decision highlighting judiciary commitment to the protection of fundamental rights and ensuring that victims are appropriately compensated in terms of money. The Court's remark highlighted compensations as aiding measure for unconstitutional acts performed by government organs infringing on fundamental rights. It recognized that administrative sclerosis often results in flagrant violations of these rights whose breach can be corrected through compensation. In *Rudal Shah v State of Bihar*, the court overturned *Kasturi Lal*<sup>9</sup> case thus establishing negligence and wrongs committee by its agents upon which liability can be established against the state.

The Supreme Court has demonstrated its willingness to establish novel remedies within its original jurisdiction under Article 32 by holding the state financially accountable for severe breaches of a petitioner's fundamental rights as outlined in Article 21. However, concerns arise regarding the extent of this responsibility and whether it encroaches upon legislative prerogatives.<sup>10</sup> Critics argue that creating new remedies under Article 32 may involve judicial decisions on policy matters that are traditionally within the purview of the legislature. This could potentially violate the constitutional framework for separation of powers. In addition, creation of remedies like compensation without legislative authorization might have to entail decisions about resource allocation which is typically a legislative function. Nevertheless, through its power to create new remedies under Article 32, the Apex Court has demonstrated its determination to preserve human rights and ensure effective reparations in case they are violated.<sup>11</sup>

The case of *D.K. Basu v. State of West Bengal* introduced a fresh outlook on the rights of arrestees and the assessment of compensation within public law. India has been found to have a major problem with custodial deaths, which are considered to be some of the worst crimes committed in a country with an established legal system. The Court reaffirmed that all types of mistreatment and inhumane punishment fall under the purview of Article 21, which safeguards the right to life and personal liberty.<sup>12</sup>

It recognized financial damages as an effective way of addressing violation of people's

---

<sup>9</sup> *Kasturi Lal v. State of U.P.*, AIR 1965 SC 1039.

<sup>10</sup> Art. 50; Also see *Krishnan Venu Gopal*, "A New Dimension to the Liability of the State under Article 32," *Indian Bar Review*, 369 Vol. 11(4) (1984).

<sup>11</sup> *Dellinger W.E.*, "Rights and Remedies : The constitution as a sword," 85 *Harv. Law. Rev.* (1971).

<sup>12</sup> *Ibid.*

fundamental rights such as freedom or life by authorities involved in public service. By doing so, it placed vicarious liability on the state for their tortious conduct, thus re-emphasizing its duty to protect these rights. It is clear from decisions of the courts that there has been progressive application of Articles 32 and 226 of the Indian Constitution by both the Supreme Court and the High Courts in awarding money as a panacea in writ petitions. It can be observed that such claims were unavailable to victimized plaintiffs at ordinary lower courts. However, what arises is that judicial redress could only take place where state liability was manifest. Nevertheless, this has not always been the case in routine incidences of violence.

## COMPENSATION UNDER SPECIAL LAWS

### Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act, 2005 is a legislation in India aimed at providing protection and relief to women who are victims of domestic violence. Under this Act, victims of domestic violence, which includes physical, sexual, verbal, emotional, and economic abuse, are entitled to various forms of assistance and support, including compensation.<sup>13</sup>

This Act is unique in that it gives the victim continuous access to resources or facilities that they are entitled to use or enjoy because of their domestic relationship, such as shared housing. The victim must be informed of their right to pursue a protection order, financial relief order, custody order, residence order, compensation order, or any combination of these remedies by the police officer or magistrate who receives the complaint. The protection of women's rights as specified by the constitution is the subject of this legislation.<sup>14</sup>

### Probation of Offenders Act, 1958

Courts may order convicts freed on probation or admonition for good behaviour, provided they pay costs and compensation to the aggrieved person, under the Compensation to Victims of Crime (Probation of convicts) Act, 1958. Section 5 covers damages, saying that a court may, in its sole discretion, release an offender on probation or admonition for good behaviour in

---

<sup>13</sup> A Critical Study On Victim Compensation Under Various Laws Of India, A Akriti Sharma, Legal service India, (15<sup>th</sup> March 2024, 05:05 pm), <https://www.legalserviceindia.com/legal/article-6103-a-critical-study-on-victim-compensation-under-various-laws-of-india.html>.

<sup>14</sup> *Ibid.*

order to reimburse the victim for any "loss" or "injury" that the court deems appropriate. This section also grants courts the authority to pay proceedings costs when making such orders. Sub-section (2) stipulates that the compensation ordered in sub-section (1) is recoverable from the victim as a fine imposed on them during the proceedings outlined in this section. However, in practice, Indian courts are not giving sufficient attention to this provision.

Therefore, no statute, including the Probation of Offenders Act of 1958 and the Code of Criminal Procedure of 1973, grants a "right" to receive compensation; instead, it is up to the court's satisfaction and discretion to make that determination. This discretionary power makes it highly impossible for these provisions to serve their intended purpose and increases chances of maximum misuse. In Sukhbir Singh (1988), the Apex Court appropriately observed that, "section 357 is an important provision but the Court have seldom invoked it perhaps due to the ignorance of the object of it.....we recommend all Courts to exercise this power liberally so as to meet the ends of justice in a better way."<sup>15</sup>

### **Motor Vehicles Act, 1988**

The number of motor vehicles on the road has increased significantly, and this has resulted in an increase in road accidents that cause fatalities or serious injuries to victims, as well as poor road maintenance and driver irresponsibility. The notion of compensatory jurisprudence for victims of motor vehicle accidents is introduced in Section 40 of this Act. It stipulates that in the event that someone is killed or rendered permanently disabled as a result of the negligence of the vehicle owner, the owner must pay a certain amount in compensation.<sup>16</sup> The Act also guarantees the rapid resolution of such claims by stressing that they "shall be disposed of as expeditiously as possible." standards that must be adhered to by administrative entities constituted under the Act. Section 163 outlines the payment of compensation in hit-and-run accidents and mandates the specification of the form, manner, and time frame for submitting applications, the designated recipients of applications, and the procedural requirements to be followed by administrative authorities established under the Act.<sup>17</sup>

---

<sup>15</sup> A Critical Study On Victim Compensation Under Various Laws Of India, A Akriti Sharma, Legal service India, (15<sup>th</sup> March 2024, 05:05 pm), <https://www.legalserviceindia.com/legal/article-6103-a-critical-study-on-victim-compensation-under-various-laws-of-india.html>.

<sup>16</sup> Introduction" (PDF). The Motor Vehicles Act, 1988. Ministry of Road Transport and Highways. Retrieved 4 July 2013.

<sup>17</sup> *Ibid.*

Compensation may be decided using a structured formula, as specified in the Second Schedule, which is provided in tabular form, in accordance with Section 163-A of the Act. In order to make a claim under this section, the plaintiff need not state or provide evidence that the vehicle owner's negligence or wrongdoing caused the plaintiff's death or permanent disability. Consequently, there is no disagreement over this issue; the Second Schedule's Section 2, which is founded on the idea of no-fault liability, governs the compensation granted under this clause. In comparison to Section 140, which grants up to Rs 25,000 in the event of permanent disablement and up to Rs 50,000 in the event of death, Section 163-A of the Motor Vehicles Act provides much larger compensation, as seen by the figures and sums stated in tabular form in the Second Schedule. Before Section 163-A was added to the Motor Vehicles Act of 1988, in order for the owner of the offending vehicle to be held liable for damages when a victim or their heirs petitioned a Motor Accident Claims Tribunal, it was essential to demonstrate that the driver was at fault. This posed a challenge for dependents of deceased victims who may not have witnessed the accident or may not recall the exact circumstances if injured. Denial of compensation on grounds of failure to establish negligence by the driver did not seem equitable to victims in welfare states. Recognizing this oversight, Parliament rectified it by enacting the Motor Vehicles (Amendment) Act 1994 (54 of 1994), which introduced Section 163-A into the MV Act, effective from November 14, 1994.<sup>18</sup>

### **Scheduled Castes and The Scheduled Tribes (Prevention Of Atrocities) Act, 1989**

The sole purpose of this legislation is to prevent crimes against Scheduled Castes and Scheduled Tribes people from being committed and to aid those who have been victimised by such crimes. Effective enforcement of the provisions outlined in Section 21 of this Act is mandatory for the State Government. The use of the phrase "shall take such measures as may be necessary" eliminates any room for discretion and mandates that the government, among other things, (a) provide adequate provisions, such as legal aid, so that those who have been subjected to atrocities can access justice; (b) pay for the transportation and lodging costs of witnesses, including victims, during an investigation or trial; and (c) offer victims of atrocities social and economic rehabilitation. Furthermore, on March 31, 1995, the central government enacted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, utilising the authority granted by sub-section (1) of Section 23 of the Act. Rule twelve, "Measures to be Taken by the District Administration," mandates that the district magistrate,

---

<sup>18</sup> "Government to amend MV Act for simplifying accident claims", The New Indian Express, 8 July 2016 .

subdivisional magistrate, or any other executive magistrate must give victims of atrocities, their dependents, and family members prompt aid in cash, kind, or both. Food, water, clothing, housing, medicine, transportation, and other basics for human beings are usually included in this help.<sup>19</sup>

### **Workmen Compensation Act, 1923**

The Act requires employers to compensate their employees for personal injuries sustained in accidents that occur during the course of their employment. Section 3 specifies the employer's obligation to provide compensation if a worker suffers injury due to an accident arising during work. The employer must pay compensation for injuries resulting in total or partial disablement of the worker for more than seven days, and for injuries resulting in death caused by accidents not directly attributable to the worker's intoxication or willful disobedience to safety rules. The Act also outlines how compensation is determined by classifying injuries as permanent partial disabilities or arising from occupational diseases, and specifies compensations payable under Schedules I, III, and IV provided in the Act.

### **JUDICIAL CONTRIBUTION**

In several instances, Judiciary has convicted the accused criminals while providing compensation for victims as per Crpc. The study of the past cases shows that earlier, judiciary's inclination on awarding compensation under Sec 357 was not bright. In the case of Palaniappa Gounder v. State of Tamil Nadu<sup>20</sup> and others, the Supreme Court deliberated on the applicability of Section 357. During the trial, the accused was originally given a hanging death sentence; however, the High Court overturned this decision and instead sentenced the accused to life in prison with a fine of Rs. 20,000, of which Rs. 15,000 was ordered to be given to the victim's surviving family members. Although the apex court upheld the decision of the High Court regarding the imposition of the fine, it reduced the amount to Rs. 15,000. The court noted, however, that there is flexibility in imposing fines, and it is not mandatory to do so on all occasions. It emphasized that legality and propriety are distinct considerations. The court argued that imposing both the death penalty and a fine would serve no societal purpose and would be unnecessary.

---

<sup>19</sup> "A Wrong Turn in the Road to Equality". Centre for Law & Policy Research. Retrieved 17 February 2019

<sup>20</sup> AIR 1977 SC 1323.

The Supreme Court held in *Sarwan Singh and Others v. State of Punjab*<sup>21</sup> that compensation should only be given out when the circumstances warrant it. If the court rules that compensation should be given, it must also take into account whether the accused can afford to pay that sum, since otherwise there would be no real benefit. It further held that various factors, including the nature of the offence, the accused person's capacity, the victim's claims, and other pertinent factors, must be taken into account when awarding compensation under section 357. It also declared that the excessive amount of fine, out of which compensation would be deductible, must be taken into consideration.

However, in a different *Hari Singh v. Sukbir Singh*<sup>22</sup> case, the Supreme Court ruled that the court's Section 357 authority to grant compensation is supplementary rather than superfluous to other penalties. This statute aims to do more than only make amends for victims who have been wronged by the criminal justice system. This clause states that such compensation must be paid in a reasonable amount. The degree of reasonableness would rely on a number of variables, including the type of offence, the accused's financial situation, the veracity of the victim's claims, etc. The court further emphasised this point by declaring that justice cannot be served if judges are not benevolent in their application. In *Jacob George v. State of Kerala*<sup>23</sup>, the court further stated that a penalty could be imposed in lack of the Sec. 357 judgement for compensation to be paid. The state contended in *Palaniappa's* case that the Apex Court's view on the use of its authority to provide damages in addition to a strict punishment was restricted to its own facts and that there has been a recent trend towards the acknowledgment of an aggrieved party's entitlement to reparations.

Court also held that in the effort to protect the rights of the accused, the victim or his family, who had been incapacitated by the criminal act of the accused, cannot be forgotten. It may be true that the life or the honour which is lost cannot be recompensed but monetary compensation would at least provide some solace. The change in trend may be because of momentum that was taking place in the international arena especially in the wake of Declaration on Basic principles of justice to victims of crime and abuse of power, 1985.

---

<sup>21</sup> 2000 AIR SCW 1895

<sup>22</sup> (1988) 4 SCC 551.

<sup>23</sup> 1994 SCC (3) 430.

## CONCLUSION & SUGGESTIONS

The foregoing discussion implies that the legal structure governing payment of compensation to victims of crime in India shows that there were gaps within the Indian law regarding victim compensation. Nonetheless, the Law Commission of India proposed amendments to the Code, which were subsequently enacted through the Criminal Amendment Act of 2008. It further enhances the provision for legislation on damages. The need of time is provided in this amendment s.357A in the code. This is why the law should be made more friendly to victims so that individuals can also experience justice as it exists within a modern and complicated society like India's. Through this process, real justice becomes possible for everyone and it can only serve the purpose if there is a possibility of rehabilitation and total elimination of tribulations suffered by victims through compensatory measures. In addition, it gives an opportunity for a victim to be compensated by an accused person while if he fails to do so due to any reason then District/State Legal Authorities would pay suitable compensation after enquiry which should be completed within two months for unidentified/untraced accused persons.

However, much like Section 357A, its effectiveness is limited due to the necessity of coordination between the central and state governments to facilitate funding for compensation schemes. This lack of coordination may stem from political opposition between different parties at both the central and state levels, undermining the benevolent intent of such provisions. Additionally, Clause (2) of Section 357A stipulates that the court must make the initial recommendation for compensation, which may lead to delays and denial of justice to crime victims as the District or the State Legal Authorities then determine the quantum of compensation. Consequently, victims may find themselves suffering further due to prolonged legal processes. Despite several amendments to the Criminal Procedure Code, there has been a notable absence of comprehensive legislation pertaining to compensation, which could provide genuine relief to victims of crime. This observation confirms the initial hypothesis that the existing legal framework in various states, which requires wrongdoers to compensate their victims for any loss or injury resulting from the commission of an offense, is insufficient.

Besides these, there are many special laws which have been enacted to compensate victims however this study indicates that the statutes are for different purposes and lack guidance from the legislature and judiciary. These laws do not serve much help to victims but instead leave them in dilemma. These have only helped their own victims. Inclusion of ss. 357 A, 357 B, 357 C is a small step towards an understanding of some victim's rights within criminal justice

systems. For far too long, the criminal justice system has focused on protection measures for the guilty person. There is widespread support for a workable, social justice based and efficient compensation scheme because the crime victim as part of the administration of criminal justice deserves constitutionalized social justice. On another note, it is clear that under Art.32 interpretation Supreme Court has made deviations from traditional phraseology and created new vistas in relief structure especially concerning personal liberty guaranteed by Article 21.

## **BIBLIOGRAPHY**

### **BOOKS -**

- S. Murlidharan, „Right of Victims in the Indian Criminal Justice System“ [2005] NHRC
- Abhishek Anand, „Compensation to the Victim of Crime: Assessing Legislative Framework and Role of Indian Courts“ (legalserviceindia.com 2012)
- N. Chandrashekar Pillai, R.V. Kelkar“s Criminal Procedure (6th ed. 2018).
- Ratanlal & Dhirajlal, Commentary on the Code of Criminal Procedure (18th 2006).
- D. Gaur, Textbook on the Code of Criminal Procedure (1st ed. 2016).

### **WEBSITES -**

- [www.academia.edu](http://www.academia.edu)
- [www.deccanherald.com](http://www.deccanherald.com)
- [www.legalserviceindia.com](http://www.legalserviceindia.com)
- [www.thelawbrigade.com](http://www.thelawbrigade.com)