



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

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 SCHEME: A CRITICAL STUDY **ON SURVIVORS OF SEXUAL OFFENCES**

AUTHORED BY - SHARDA

Ph.D Research Scholar, MUIT, Noida, Email Id: sharda_kv@yahoo.in

CO-AUTHOR - DR. AJEET KUMAR SINGH

Department of Law, MUIT, Lucknow

Abstract:

There are two parties of a case, one is Prosecution (Victim) and other is Defense (Accused). Both are paramount to Criminal Justice System. In original Criminal Procedure Code the rights of accused were provided, but the victims were seen as an informant of crime. They are now acquiring a central stage in the Criminal Justice administration, specially the women victims of sexual offences. In every society the sexual offence is present. The impact of sexual assault and sexual abuse is irreparable. Major amendments were took place after Nirbhaya case. Compensation to the sexual victim was given if the accused is arrested and convicted under sec. 357 of Criminal Procedure Code. Now a victim can be compensated by the government even if the accused is not found. Money cannot heal the emotional and life-long pain of the victim but it helps to some extent to reduce the pain. It takes enormous strength and positive state of mind which can be achieved by counseling of the victim at each and every step till she is alive. Restorative Justice is the fundamental right under the constitution of India and also it puts the duty on the State to compensate the victim. Compensation schemes prevailing in all over the States of India are not same. For the same offence different amount of compensation is disbursed to the victims. Due to complex procedure under these schemes the poor and uneducated victim is deprived of her right to compensation. There is a need of comprehensive statute for compensating the victims of sexual offences.

Keywords: Sexual Offences, Survivors, Criminal Procedure Code, Justice.

Introduction

The entire criminal justice system revolved around the offender till 2008. It focused on accused rights. The victims were forgotten persons. The role of victim was only for reporting the crime and appearing before the court. The victim's rights are paramount in criminal justice system because he/she is the real sufferer. The effect of sexual abuse on women victim is more devastating than the other offences. In case of sexual offences the entire psychology of the victim becomes upside down. The long lasting impact destroys his/her dignity in society. Only punishing the accused is not enough to give justice to the victim. She should be rehabilitated through various methods of restoration so that she can act effectively again in the society. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of power, 1985 defines Victims of crime as:-¹

“Victim 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 act or omission that are in violation of criminal laws operative within member states including those laws prescribing criminal abuse of power.”

A person who may be considered as victim, under this declaration regardless of whether the perpetrator identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim, the term victim also includes the immediate family or dependence of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

According to sec 2(wa) of the Criminal Procedure Code of India:-²

“Victim is the person who has suffered 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.”

Victims of sexual offences are those persons who have suffered any wrongful loss or injury as a result of sexual offences punishable under penal laws. Sexual abuse is the act against another person without the consent of that another person. Some of the sexual offences punished under

¹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, available at: <http://www.un.org>.

² Code of Criminal (Amendment) Act, 2008, Sec 2(wa)

the Indian Penal Code, 1860 are sexual harassment, sexual assault, voyeurism, rape, gang rape, digital rape outraging the modesty of a woman by doing some sexual activity etc.

The women victims of sexual offences are more vulnerable. They have got suicidal or depressive tendencies. Sexual violence affects victim's relationship with the family members, friends and Co-workers. They do not trust on their family or friends. They cannot get close to the friends and relatives as before the crime. Some of the survivors are at the risk of pregnancy and sexually transmitted infections. Some victims express their emotions while others keep their feelings inside. Some of the emotional reactions are guilt, shame, self-blame, embarrassment, fear, distrust, sadness, isolation etc. They suffer psychological disorders like nightmares, flashbacks, depression, difficulty in concentrating, post-traumatic stress disorder. Some victims face bodily injury like changing in eating or sleeping disorders, anger, numbness, Confusion, shock, anxiety, phobias, etc.

In many leading cases, Supreme Court issued guidelines in favor of the rape victims. In *Delhi Domestic Working Women's Forum v. union of India and others*³, it was held by the Supreme Court that speedy trial is one of the essential requisite of law in case of sexual offences. The trial cannot be frustrated by prolongation of investigation. If the trial is not done speedily then the rights guaranteed under article 14 and article 21 will be meaningless. Rape is an experience which shakes the foundation of the lives of the victims. The effect of sexual offence is life time for many of the victims. It alters their behavior and generates endless fear. In addition to the trauma of the rape, victims have had to suffer further agony during legal proceedings. The complaints of rape are handled roughly and are not given such attention as is warranted. The victims are humiliated by the police.

In *Shri Bodhisattva Gautam v. Miss Subhra Chakraborty*⁴, the Supreme Court stated that rape is not only a crime against a woman; it is a crime against the entire society. It destroys the entire psychology of a woman and pushed her into deep emotional crises. It is only by her sheer willpower that she rehabilitates herself in this society which on coming to know of the rape, looks down upon her and disrespect her. Rape is therefore the most hated crime.

³ (1995) 1 SCC 14

⁴ (1996) 1 SCC 490

The most significant case for sexual harassment at work place is *Bhanwari Devi's case*⁵. The case is known as Vishakha Guidelines. The Supreme Court of India set guidelines for the protection of women workers at the workplace and stated the method to be followed while dealing the cases regarding sexual harassment of women. The guidelines were issued by the Supreme Court for the protection of working women. Further it extends the meaning and scope of sexual harassment. It defines sexual harassment as an unwanted sexual determination which is directly or impliedly intended to cause the following-

- (i) Physical contact or advances
- (ii) A demand or request for sexual favors
- (iii) Sexual colored remarks
- (iv) Showing Pornography
- (v) Any other unwelcome conduct whether it is physical, verbal or non- verbal.

All victims have right to seek protection from the State as it considered as the fundamental right under Article 21 of the Constitution. They can get free legal aid provided under Article 39A.

Victim can engage advocate of her choice to assist the prosecution. Her statements can be recorded at safe place of her choice. They have right of In- Camera trial and identity protection. There was a huge change in laws pertaining to rape and sexual offences after the Mathura rape case in 1983. In this case it was held that the victim had given her consent. Section 114A was added in the Indian Evidence Act 1862. Now the consent of the rape victim shall be presumed absent. States are bound to compensate the victims according to the victim compensation scheme. Every state has their own scheme for compensating the victims. The amount under these schemes is not disbursed uniformly. Although, Central Government has made a Central Scheme, but the States are still following their own scheme. These schemes are available on the paper only. The implementation of the schemes is very tough due to complex procedure of law. If the money is not paid to the victim within time period then it will not amount to justice to the victim. Some of the victims are not aware of the schemes. In Rajasthan 3305 cases of rape were registered in 2017 and only 140 victims received compensation under these schemes.

⁵ Smt. Bhavri Devi v. State of Rajasthan (1997) 1 WLC 42

Justice Verma Committee was formed after the horrendous *Nirbhaya gang rape case*⁶ in 2012. After this report the laws on rape and sexual violence made more stringent. It recommended the establishment of a Rape Crisis Cell, setup of CCTVs at all police stations, online filing of complaints by the victims, assistance to victims of rape and sexual assault irrespective of the place of the crime.

The Malimath committee⁷ recommends that a holistic approach shall be taken by the government to guarantee the victim's rights. Especially two rights, one is to participate in criminal trial and another is to seek compensation as a matter of right. This report mentioned that people by and large have lost confidence in the criminal justice system. Victims feel ignored and facing obstacles in gaining access to redress mechanism. They are victimized again and again by the law enforcing agencies. Police behavior is not co-operative. In *State of Madhya Pradesh v. Madan Lal*⁸, the Supreme Court gave directions to the Lower Courts that they should not give order of compromise and settlement (Marriage between the accused and then prosecutrix) in rape cases because it is against the honour of a woman. In *Aparna Bhatt and others v. State of Madhya Pradesh*⁹, it was held that the conditions of bail to the accused should not be impugned (to tie rakhi on the hand of the accused, accused register himself as COVID Warrior). These conditions are not in the interest of justice.

Supreme Court Judgments-

In *Nipun Sexena v. Union of India*¹⁰, it was observed by the Bench of Justice Madan B. Lokur and Justice Deepak Gupta that unfortunately, in our society, the victim of a sexual offence, especially a victim of rape, is treated worse than the perpetrator of the crime. She has been subjected to forcible sexual abuse. However, for no fault of the victim, society instead of empathizing with the victim, starts treating her as an 'untouchable'. A victim of rape is treated like a "pariah" and ostracized from society. Many times, even her family refuses to accept her back into their fold. The harsh reality is that many times cases of rape do not even get reported because of the false notions of so called 'honour' which the family of the victim wants to uphold.

⁶ Mukesh and Anr v. State for NCT of Delhi and Ors. (2017) 6 SCC 1

⁷ Government of India, Committee on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003) available at: <http://mha.nic.in>

⁸ (2015) 7 SCC 681

⁹ (2021) SCC 230

¹⁰ 2019 2 SCC 703

The matter does not end here. Even after a case is lodged and FIR recorded, the police, more often than not, question the victim like an accused. If the victim is a young girl who has been dating and going around with a boy, she is asked in intimidating terms as to why she was dating a boy. The victim's first brush with justice is an unpleasant one where she is made to feel that she is at fault; she is the cause of the crime.

A victim of rape will face hostile discrimination and social ostracism in society. Such a victim will find it difficult to get a job, will find it difficult to get married and will also find it difficult to get integrated in society like a normal human being. Our criminal jurisprudence does not provide for an adequate witness protection programme and, therefore, the need is much greater to protect the victim and hide her identity. In this regard, we may make reference to some ways and means where the identity is disclosed without naming the victim. In one case, which made the headlines recently, though the name of the victim was not given, it was stated that she had topped the State Board Examination and the name of the State was given. It would not require rocket science to find out and establish her identity. In another instance, footage is shown on the electronic media where the face of the victim is blurred but the faces of her relatives, her neighbors, the name of the village etc. are clearly visible. This also amounts to disclosing the identity of the victim. We, therefore, hold that no person can print or publish the name of the victim or disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large. The Supreme Court in *Suresh v. State of Haryana*¹¹, and *Nipun Saxena v. Union of India*¹², it was held that the courts are duty bound to consider the factual scenario of each case to recommend appropriate compensation under section 357 and section 357A of Criminal Procedure Code, however despite these guidelines and judicial interventions the victim compensation is still remains far reaching dream for majority of the victims.

Victim's right to rehabilitation includes-

1. Access to justice and fair treatment
2. Restitution
3. Compensation
4. Assistance

¹¹ 2015 SCC 2 227

¹² 2019 2 SCC 703

Compensation to victims of sexual offences can be awarded by the courts under Section 357 of the Code of Criminal Procedure 1973 from the fine recovered as a part of sentence. If the compensation under this section is not adequate then there was no provision provided under the code before 2009. An amendment was made in the code and Section 357A was added in the code, under which, compensation can be recommended even in cases where the trial ends in acquittal or discharge, provided there is a need for rehabilitation of the victims. Even if there is no trial takes place, compensation can also be granted because the offender is not identified and cannot be traced and the victim requires rehabilitation. Thus under Section 357, a victim is entitled to compensation only when the accused is convicted. Still under Section 357A, there is a limitation of compensation amount. Complex procedure of getting compensation under the scheme deters the victims to get timely assistance.

Reparation is another mode of rehabilitation it includes restitution, compensation, satisfaction and guarantee of non-repetition. Apart from compensation victim's assistance is a dire necessity for victims of sexual offences. This includes Crisis intervention, Counseling, Emergency Shelter, Criminal justice advocacy and Emergency transportation.

Victim assistance is important psychologically, financially, physically and spiritually for those who have been undergone the trauma of sexual offence. The compensatory mechanism should be adequate and uniform in whole India.

The Indian policy makers must follow the guide i.e. The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 to protect the victim rights. These are as follows-

13

- a) Victims should be treated with compassion and respect for their dignity. They are entitled to the mechanisms of justice and to promote redress, as provided by national legislation, for the harm that they have suffered.
- b) Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress

¹³ The declaration of basic principles of justice for victims of crime and abuse of power available at: <http://www.un.org>.

through such mechanisms.

- c) Informing victims of their role and the scope, timings and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information.
- d) Allowing the views and concerns of victims to be presented should be considered at appropriate stages of the proceedings where their personal interests are affected without prejudice to the accused and consistent with the relevant national criminal justice system.
- e) Providing proper assistance to victims throughout the legal process.
- f) Taking measures to minimize inconvenience to victims, protect their privacy where necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation. Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

Sexual Abuse and Rape are the most heinous offences committed against body. Not a single sector remains untouched by sexual harassment. Now a day's, sexual harassment at work place is speeding up in our society. It decreases work performance, losses promotional opportunities, defamation, depression, anxiety, panic attack, trauma, sleeplessness, shame, guilt, self-blame, difficulty in concentrating, fatigue, loss of motivation, eating disorder, feeling angry, loss of self confidence, overall loss of trust in people, problems with intimacy, withdrawal and isolation. Sexual harassment does not remain untouched even in a single sector.

Under Article 15 it is provided that there would be no discrimination on the basis of caste, religion, sex and under Article 16, the equality of opportunity is given. Article 39 ensures the maintenance of the dignity of the women worker and provides the safe workplace environment. Also Article 21 talks about right to life. It is the fundamental right of the victims of sexual offences to live with dignity in society. Sexual harassment at workplace Act 2013, defines aggrieved woman that includes a woman who is working at a place, visiting a workplace, student, domestic worker, regular temporary ad-hoc daily wager, contract worker, probationer trainee¹⁴. For the growth and prosperity of any organization, safe working environment is the duty of an employer. He is obliged to file a complaint if there is any case of sexual harassment found in his institution. He should assist the employees in every possible manner. To spread awareness

¹⁴ Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

in his organization with regard to the matters of sexual harassment and the safety of the woman, this Act broadens the scope of workplace. It includes public as well as private organization.

Delhi Victim Compensation Scheme, 2018 PART II

Compensation Scheme for Women Victims, Survivors of Sexual Assault and other Crimes, it came into force on October 2, 2018. It applies to the victims and their dependents who have suffered loss or injury, as the case may be, as a result of the offence committed and would require rehabilitation. Victim means a person who has suffered loss or injury as a result of the offence and in the case of his death, the expression 'victim' shall mean to include his or her guardian or legal heir.

Under this scheme, dependent includes wife, husband, father, mother, grandparents, unmarried daughter and minor children of the victim as determined by the Delhi State Legal Services Authority or District Legal Services Authority. On the basis of report of Sub Divisional Magistrate of the concerned area, Station House Officer or Investigating Officer or on the basis of material placed on record where the dependent by way of affidavit or on its own inquiry. A fund is created under this scheme for the compensation of the victims of sexual offences. The victim and his dependence shall be eligible for the grant of compensation after satisfying the criteria that she should not have been compensated for the loss or injury under any other scheme of the Central Government or the State Government. Provided that the amount of compensation received under any other scheme shall be adjusted from the compensation payable under this scheme, only the remainder shall be payable by the Delhi Legal Services Authority.

An application for the award of compensation can be filed by the victim or her dependents or the Station House Officer of the area and it shall be submitted along with the copy of First Information Report, Medical Report, Death Certificate if available, copy of the judgment, recommendation of the court if the trial is over, to the State or District Legal Services Authority. The secretary of the respective Legal Services Authority shall decide the application as per the scheme.

The Legal Services Authority can retain inquiry and decide the matter itself or may call any application, recommendation moved before any of the Legal Services Authority for disposal. Relief awarded under this scheme is the compensation to the victim or their dependents to the

extent as specified in the schedule.

Factors to be considered while awarding compensation are as follows-¹⁵

1. Gravity of the offence and the severity of mental or physical harm or injury suffered by the victims.
2. Expenditure incurred or likely to be incurred on the medical treatment for physical or mental health of the victim, funeral, travelling during investigation, inquiry, trial (other than diet money).
3. Loss of education opportunity as a consequence of the offence, including absence from school or college due to the mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason.
4. Impact on employment as a result of the offence, including place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason.
5. The relationship of the victim to the offender if any.
6. Whether the abuse was a single isolated incident or whether the abuse took place over a period of time.
7. Whether the victim contracted a sexually transmitted disease or any other disease as a result of the offence.
8. Whether the victim contracted Human Immunodeficiency Virus as a result of the offence.
9. Any disability suffered by the victim as a result of the offence and nature and extent of the disability.
10. Financial condition of the victim against whom the offence has been committed so as to determine a need for rehabilitation.
11. Financial loss to the victim or her dependents, extent and period of the same.
12. In case of death of the victim, the age of the deceased, his monthly income, number of dependents, life expectancy, future promotional and growth prospect etc.
13. Any other factor which the State Legal Service Authority or the District Legal Services Authority may consider just insufficient.

In case of utmost hardship and gravity, the member Secretary of the Authority may suo moto or

¹⁵ Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

on application of the victim, after preliminary verification of the facts proceed to grant such relief as may be required in the circumstances of each case. The inquiry under section 357A of the Criminal Procedure Code shall be completed expeditiously and the period in no case shall exceed beyond 60 days from the receipt of petition or recommendation. The amount of compensation awarded under this scheme is given to the victim. Money will be deposited in the account of the victim. Out of that amount, 75% will be deposited in the fixed deposit and 25% will be available for utilization. In exceptional cases, amount may be withdrawn for educational and medical purpose at the discretion of the State Legal Service Authority or District Legal Service Authority. For interim relief to the victim, the Authority may order for immediate first aid facility or medical benefits to be made available free of cost to alleviate the suffering of the victim on the certificate of police officer not below the rank of the officer in charge of the police station or magistrate of the area concerned on the application of the victim or her dependents or suo moto. The amount granted shall not be more than 50,000 but in extreme hardship and gravity of the offence, it can be more than 50,000. In case where the victim needs continuous treatment or surgical intervention, the authority shall forward the case to the government. The claim made under section 357A of the Code of Criminal Procedure shall not be entertained after a period of three years from the date of occurrence of the offence or conclusion of the trial. Woman victim compensation fund is segregated for disbursement of money out of state victim compensation fund and central fund. Sexual assault victim means female who has suffered mental or physical injury or both as a result of sexual offences provided in Indian Penal Code, including Section 376A (causing death or resulting in persistent vegetative state of victim), Section 376B (Sexual Intercourse with his own wife who is living under decree of separation), section 376C (Sexual intercourse by a person in Authority), Section 376D (Gang Rape), Section 376E (Repeat Offenders of Rape) Section 354A (Sexual Harassment), Section 354B (assault or use of criminal force to woman with intent to disrobe), Section 354C (Voyeurism), Section 354D (Stalking), and Section 509 (word, gesture or act intended to insult the modesty of a woman).

Compensation amount under the scheme

| | |
|--------------|-------------------------|
| Loss of life | - 5,00,000 to 10,00,000 |
| Gang Rape | - 5,00,000 to 10,00,000 |
| Rape | - 4,00,000 to 7,00,000 |

| | |
|--|--|
| Unnatural Sexual Assault | - 4,00,000 to 7,00,000 |
| Loss of any limb or part of body resulting permanent disability of 80% or above | - 2,00,000 to 5,00,000 |
| Disability below 80% but above 40% | - 2,00,000 to 4,00,000 |
| Disability below 40% but above 20% | - 1,00,000 to 3,00,000 |
| Disability below 20% any mental injury requiring rehabilitation | - 1,00,000 to 2,00,000 Previous physical or |
| Loss of fetus or miscarriage as a result of Assault or loss of fertility | - 2,00,000 to 3,00,000 |
| In case of pregnancy on account of rape | - 3,00,000 to 4,00,000 |
| In case child is born out of pregnancy, compensation or part thereof may be disbursed in favour of child. If a woman victim of sexual offence is covered under more category of the schedule, she shall be entitled to be considered for combined value of the compensation. | |

Conclusion and Suggestions:

Honorable Supreme Court has directed all the States to implement the new scheme of 2018, but only few States have amended their own schemes. There is a huge gap regarding amount of compensation provided for victims of same offence under different schemes. It is seen that in some cases the amount of compensation is very low whereas in very few, it seems to be adequate. Guidelines for the Public prosecutors and police should be provided in this scheme. Training must be given to them so that they can apply the victim friendly environment. Their attitude and behaviour should be more sympathetic towards the victim. Educate and quick monetary aid is required to be ensured in order to make the victim able to face hurdles which are monetary and aid required for medical and psychological treatment. The amount of compensation decided under the victim compensation scheme shall be disbursed the victim or to her dependents as the case may be from a special fund created for this purpose. Job assistance as per the qualification could help in the longer run. Awareness regarding Legal Service Authority and Victim Compensation Scheme is needed for achieving justice. Women Advocates should be appointed at each and every police station for providing information regarding Victim Compensation Scheme to the victims

of sexual offences. Copy of victim compensation scheme must be provided to the victim at the time of registering the case and the printed copy should be posted on the wall of every police station and court premises in regional language. The procedure of getting compensation from the government should be simple and accessible to the victim. There should be a statute regarding victim compensation in India. Various efforts are made to improve the welfare of victims by the Indian judiciary but there is a lot to be done in order to make conducive environment for the victims of sexual offences.

There should be recognition of victim advocates and restorative justice advocates, which can lead alliances, partnerships and collaborations to support or promote restorative justice reform of the criminal justice system. The accountability should be fixed on such officers who are reluctant in their duty for fixing the compensation. There is an imperative need to review the traditional criminal justice system to stop the re-victimization of the survivors of sexual offences. Victim's participation at various stages of trial is the need of hour.

